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Briefing on How To Use the Federal Register
For information on briefings in San Francisco, CA and Seattle, WA, see announcement on the inside cover of this issue.

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THE FEDERAL REGISTER

WHAT IT IS AND HOW TO USE IT

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

WHO: The Office of the Federal Register.

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

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

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

SAN FRANCISCO, CA

WHEN: July 22, at 9:00 am
WHERE: Federal Building and U.S. Courthouse, Conference Room 7209–A, 450 Golden Gate Avenue, San Francisco, CA
RESERVATIONS: Federal Information Center, 1–800–726–4995

SEATTLE, WA

WHEN: July 23, at 1:00 pm
WHERE: Henry M. Jackson Federal Building, North Auditorium, 915 Second Avenue, Seattle, WA
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Rules and Regulations

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

SMALL BUSINESS ADMINISTRATION

13 CFR PART 121

Small Business Size Standards; Waiver of the Nonmanufacturer Rule

AGENCY: Small Business Administration.

ACTION: Notice to terminate waiver of the nonmanufacturer rule for electric motors.

SUMMARY: The Small Business Administration (SBA) is terminating the waiver of the Nonmanufacturer Rule for electric motors. The class of products of electric motors is identified under Product and Service Code (PSC) 6105 and Standard Industrial Classification (SIC) Code 3621. SBA announced the waiver for electric motors in the **Federal Register** on February 24, 1992 (57 FR 6290). The decision to terminate the waiver of the Nonmanufacturer Rule is based on our recent discovery of small business manufacturers for this class of products. Terminating the waiver will require recipients of contracts set aside for small or 8(a) businesses to provide the products of small business manufacturers or processors.

EFFECTIVE DATE: September 21, 1992.

FOR FURTHER INFORMATION CONTACT: James Parker, Procurement Analyst, phone (703) 695-2435.

SUPPLEMENTARY INFORMATION: Public Law 100-656, enacted on November 15, 1988, incorporated into the Small Business Act the previously existing regulation that recipients of Federal contracts set aside for small businesses or SBA 8(a) Program procurements must provide the products of small business manufacturers or processors. The SBA regulations imposing this requirement are found at 13 CFR 121.906(b) and 121.1106(b). Section 210 of Public Law 101-574 further amended the law to allow for waivers for classes of products for which there are no small business manufacturers or processors "available to participate in the Federal procurement market."

SBA has recently been advised of the existence of small business manufacturers for electric motors. Thus, the waiver previously granted for electric motors under PSC 6105 and SIC 3621 is terminated.

Dated: June 9, 1992.

Robert J. Moffitt,

Chairman, Size Policy Board.

[FR Doc. 92-14394 Filed 6-19-92; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD 09-92-12]

Special Local Regulations; Buick Watersports Weekend, Saginaw River, Bay City, MI

AGENCY: Coast Guard, DOT.

ACTION: Temporary rule.

SUMMARY: Special Local Regulations are being adopted for the Buick Watersports Weekend. This event will be held on the Saginaw River between the Liberty Bridge and the Veterans Memorial Bridge on August 1 and 2, 1992. The Buick Watersports Weekend will include a closed course hydroplane race involving several inboard hydroplanes, various personal and ski-show watercraft, a professional water-ski team, bungee jumping over the river, and a helicopter-trapeze act which could pose hazards to navigation in the area. The effect of these regulations will be to restrict general navigation in the Saginaw River between the Liberty Bridge and the Veterans Memorial Bridge for the safety of spectators and participants. The regulations are needed to provide for the safety of life, limb, and property on navigable waters during the event.

EFFECTIVE DATES: These regulations are effective from 6 a.m. until 7 p.m. (E.D.S.T.), each day, on the 1st and 2d of August 1992.

FOR FURTHER INFORMATION CONTACT: William A. Thibodeau, Marine Science Technician Third Class, U.S. Coast Guard, Aids to Navigation & Waterways Management Branch, Ninth Coast Guard District, 1240 East 9th Street, Cleveland, Ohio 44199-2060, (216) 522-4420.

SUPPLEMENTARY INFORMATION: In accordance with 5 U.S.C. 553, a Notice of Proposed Rule Making has not been published for these regulations and good cause exists for making them effective in less than 30 days from the date of publication. Following normal rulemaking procedures would have been impracticable. The application to hold this event was not received by the Commander, Ninth Coast Guard District, until May 11, 1992, and there was not sufficient time remaining to publish proposed rules in advance of the event or to provide for a delayed effective date.

DRAFTING INFORMATION: The drafters of this regulation are William A. Thibodeau, Marine Science Technician Third Class, U.S. Coast Guard, project officer, Aids to Navigation & Waterways Management Branch and M. Eric Reeves, Commander, U.S. Coast Guard, project attorney, Ninth Coast Guard District Legal Office.

Discussion of Regulations

The Buick Watersports Weekend will be held on the Saginaw River between the Liberty Bridge and the Veterans Memorial Bridge on August 1 and 2, 1992. The Buick Watersports Weekend will include a closed course hydroplane race involving several inboard hydroplanes, various personal and ski-show watercraft, a professional water-ski team, bungee jumping over the river, and a helicopter-trapeze act which could pose hazards to navigation in the area. The effect of these regulations will be to restrict general navigation in the Saginaw River between the Liberty Bridge and the Veterans Memorial Bridge for the safety of spectators and participants. However, there will be two 15 minute breaks in the morning and two 15 minute breaks in the afternoon along with a 30 minute break at approximately 12 p.m. to allow vessel traffic to transit the area. Commercial vessel traffic shall have priority passage. These regulations are needed to provide for the safety of life, limb, and property on navigable waters during the event. Any vessel desiring to transit the regulated area may do so only with prior approval of the Patrol Commander (Officer in Charge, U.S. Coast Guard Station Saginaw River, MI).

Economic Assessment and Certification

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

Since the impact of this regulation is expected to be minimal, the Coast Guard certifies that it will not have a significant economic impact on a substantial number of small entities.

Federalism

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

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water), Reporting and recordkeeping requirements, Waterways.

Temporary Regulations

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

PART 100—[AMENDED]

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

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

2. Part 100 is amended to add a temporary § 100.35–T0912 to read as follows:

§ 100.35–T0912 Buick Watersports Weekend, Saginaw River, Bay City, MI.

(a) *Regulated area.* That portion of the Saginaw River from the Liberty Bridge on the north to the Veterans Memorial Bridge on the south.

(b) *Special local regulations.* (1) The Coast Guard will be regulating all vessel navigation and anchorage in the regulated area. Except for vessels authorized by the Coast Guard Patrol Commander, no person or vessel may enter or remain in the regulated area without the permission of the Patrol Commander from 6 a.m. until 7 p.m. (E.D.S.T.), each day, on the 1st and 2d of August 1992.

(2) The Coast Guard will patrol the regulated area under the direction of a designated Coast Guard Patrol Commander. The Patrol Commander may be contacted on channel 16 (156.8 MHZ) by the call sign "Coast Guard Patrol Commander". Any vessel, not authorized to participate in the event, desiring to transit the regulated area may do so only with prior approval of the Patrol Commander and when so directed by that officer. Transiting vessels will be operated at bare steerageway, and will exercise a high degree of caution in the area.

(3) The Patrol Commander may direct the anchoring, mooring, or movement of any boat or vessel within the regulated area. A succession of sharp, short signals by whistle or horn from vessels patrolling the area under the direction of the U.S. Coast Guard Patrol Commander shall serve as a signal to stop. Any vessel so signaled shall stop and shall comply with the orders of the Patrol Commander. Failure to do so may result in expulsion from the area, citation for failure to comply, or both.

(4) The Patrol Commander may establish vessel size and speed limitations and operating conditions.

(5) The Patrol Commander may restrict vessel operation within the regulated area to vessels having particular operating characteristics.

(6) The Patrol Commander may terminate the marine event or the operation of any vessel at any time it is deemed necessary for the protection of life and property.

Dated: June 5, 1992.

G.A. Penington,

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

[FR Doc. 92–14197 Filed 6–19–92; 8:45 am]

BILLING CODE 4910–14–M

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33 CFR Part 100

[CGD 09–92–10]

Special Local Regulations; Milwaukee Summerfest, Milwaukee Harbor, Lake Michigan, Milwaukee, WI

AGENCY: Coast Guard, DOT.

ACTION: Temporary rule.

SUMMARY: Special Local Regulations are being adopted for the Milwaukee Summerfest. This festival will include several events within a man-made lagoon directly adjacent to the Summerfest grounds in Milwaukee Harbor, a hole-in-one golf contest onto a barge, water-skiing, and other aquatic events, from the 25th of June 1992 until the 5th of July 1992. The effect of these regulations will be to restrict general navigation in the regulated area, the Summerfest lagoon in Milwaukee Harbor, for the safety of spectators and participants. These regulations are needed to provide for the safety of life, limb, and property on navigable waters during the event.

EFFECTIVE DATE: The regulations are effective from 11:30 a.m. (c.d.s.t) until 12 midnight (c.d.s.t.), each day, from the 25th of June 1992 until the 5th of July 1992.

FOR FURTHER INFORMATION CONTACT: William A. Thibodeau, Marine Science Technician Third Class, U.S. Coast Guard, Aids to Navigation & Waterways Management Branch, Ninth Coast Guard District, 1240 East 9th Street, Cleveland, Ohio 44199–2060, (216) 522–4420.

SUPPLEMENTARY INFORMATION: In accordance with 5 U.S.C. 553, a notice of proposed rulemaking has not been published for these regulations and good cause exists for making them effective in less than 30 days from the date of publication. Following normal rulemaking procedures would have been impracticable. The application to hold this event was not received until May 8, 1992, and there was not sufficient time to publish proposed rules in advance of the event or to provide for a delayed effective date.

Drafting Information

The drafters of this regulation are William A. Thibodeau, Marine Science Technician Third Class, U.S. Coast Guard, project officer, Aids to Navigation & Waterways Management Branch and M. Eric Reeves, Commander, U.S. Coast Guard, project attorney, Ninth Coast Guard District Legal Office.

Discussion of Regulations

The Milwaukee Summerfest will be conducting several events within the man-made lagoon directly adjacent to the Summerfest grounds in Milwaukee Harbor from the 25th of June 1992 until the 5th of July 1992. This festival will have daily activities, that will include approximately 50 combined water-ski boats, jet skis, wind surfers, and a hole in one golf course green located on a 180 foot anchored barge, which could pose hazards to navigation in the area. Any vessel desiring to enter the regulated area may do so only with prior approval of the Patrol Commander (Officer in Charge, U.S. Coast Guard Station Milwaukee, WI).

Economic Assessment and Certification

This regulation is considered to be non-major under Executive Order 12291 on Federal Regulation and nonsignificant under Department of Transportation regulatory policies and procedures (44 FR 11034; February 26, 1979). The economic impact has been found to be so minimal that a full regulatory evaluation is unnecessary. Any impact on commercial traffic in the area will be negligible.

Since the impact of this regulation is expected to be minimal, the Coast Guard certifies that it will not have a significant economic impact on a substantial number of small entities.

Federalism

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

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water), Reporting and recordkeeping requirements, Waterways.

Temporary Regulations

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

PART 100—[AMENDED]

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

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

2. Part 100 is amended by adding a temporary § 100.35–T0910 to read as follows:

§ 100.35–T0910 Milwaukee Summerfest, Lake Michigan, Milwaukee Harbor, Milwaukee, WI.

(a) *Regulated Area.* The uncharted lagoon or basin in Milwaukee Harbor north of the mouth of the Milwaukee River and directly adjacent to the Summerfest grounds, enclosed by shore on the west and a "comma" shaped man-made rock wall on the east. The construction of the lagoon is such that a small "basin" has been created with one entrance located at the northwest end, thus, there is no "thru traffic". Four special buoys will be set by the sponsor to delineate the entrance to the lagoon.

(b) *Special local regulations.* (1) The Coast Guard will be regulating all vessel navigation and anchorage in the above area from 11:30 a.m. (c.d.s.t.) until 12 midnight (c.d.s.t.), each day, from the 25th of June 1992 until the 5th of July 1992. When determined appropriate by the Coast Guard Patrol Commander, vessel traffic will periodically be permitted to transit through the regulated area during breaks.

(2) The Coast Guard will patrol the regulated area under the direction of a designated Coast Guard Patrol Commander. The Patrol Commander may be contacted on channel 16 (156.8 MHZ) by the call sign "Coast Guard Patrol Commander". Any vessel, not authorized to participate in the event, desiring to enter the regulated area may do so only with prior approval of the Patrol Commander and when so directed by that officer. When granted approval by the Coast Guard Patrol Commander, vessels entering the regulated area will be operated at bare steerageway, and will exercise a high degree of caution in the area.

(3) The Patrol Commander may direct the anchoring, mooring, or movement of any boat or vessel within the regulated area. A succession of sharp, short signals by whistle or horn from vessels patrolling the area under the direction of the U.S. Coast Guard Patrol Commander shall serve as a signal to stop. Any vessel so signaled shall stop and shall comply with the orders of the Patrol Commander. Failure to do so may result in expulsion from the area, citation for failure to comply, or both.

(4) The Patrol Commander may establish vessel size and speed limitations, and operating conditions.

(5) The Patrol Commander may restrict vessel operation within the regulated area to vessels having particular operating characteristics.

(6) The Patrol Commander may terminate the marine event or the operation of any vessel at any time it is deemed necessary for the protection of life and property.

Dated: June 5, 1992.

G.A. Penington,

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

[FR Doc. 92–14196 Filed 6–19–92; 8:45 am]

BILLING CODE 4910–14–M

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33 CFR Part 100

[CGD 09–92–11]

Special Local Regulations. Simcoe Landing, Lower Niagara River, Lake Ontario, Youngstown, NY

AGENCY: Coast Guard, DOT.

ACTION: Temporary rule.

SUMMARY: Special Local Regulations are being adopted for the marine event Simcoe Landing. The Simcoe Landing will involve six sailing ships recreating the 1792 landing of Simcoe at Niagara-On-The-Lake which will also include cannon fire from both the U.S. and Canadian shoreline. This event will take place in both U.S. and Canadian waters of the Lower Niagara River on the 4th of July 1992. The effect of these regulations will be to restrict general navigation in the U.S. waters of the Lower Niagara River from the mouth of the river southward to Niagara River Range Front Light for the safety of spectators and participants. The Canadian Authorities will be imposing the same restrictions in their waters for this event. These regulations are needed to provide for the safety of life, limb, and property on navigable waters during the event.

EFFECTIVE DATE: The regulations are effective from 12 p.m. until 2 p.m. (e.d.s.t.) on July 4, 1992.

FOR FURTHER INFORMATION CONTACT: William A. Thibodeau, Marine Science Technician Third Class, U.S. Coast Guard, Aids to Navigation & Waterways Management Branch, Ninth Coast Guard District, 1240 East 9th Street, Cleveland, OH 44199, (216) 522–4420.

SUPPLEMENTARY INFORMATION: In accordance with 5 U.S.C. 553, a Notice of Proposed Rule Making has not been published for these regulations. Following normal rulemaking procedures would have been impracticable. The application to hold this event was not received by the Commander, Ninth Coast Guard District until May 14, 1992 and there was not sufficient time remaining to publish proposed rules in advance of the event or to provide for a delayed effective date.

Drafting Information

The drafters of this regulation are William A. Thibodeau, Marine Science Technician Third Class, U.S. Coast Guard, project officer, Aids to Navigation & Waterways Management Branch and M. Eric Reeves, Commander, U.S. Coast Guard, project attorney, Ninth Coast Guard District Legal Office.

Discussion of Regulations

The marine event Simcoe Landing will take place in both the U.S. and Canadian waters of the Lower Niagara River from the mouth of the river southward to the Niagara River Range Front Light from 12 p.m. (e.d.s.t.) until 2 p.m. (e.d.s.t.) on the 4th of July 1992. This event will involve six sailing ships recreating the 1792 landing of Simcoe at Niagara-On-The-Lake and will also

include cannon fire from both the U.S. and Canadian shoreline. Any vessel desiring to transit or anchor in the regulated area may do so only with the prior approval of the Coast Guard Patrol Commander (Officer in Charge, U.S. Coast Guard Station Niagara, NY). Canadian Authorities will be imposing the same restrictions in their waters during the event.

Economic Assessment and Certification

These regulations are considered to be non-major under Executive Order 12291 on Federal Regulation and nonsignificant under Department of Transportation regulatory policies and procedures (44 FR 11034; February 26, 1979). Because of the short duration of these regulations, their economic impact has been found to be so minimal that a full regulatory evaluation is unnecessary.

Since the impact of these regulations is expected to be minimal the Coast Guard certifies that they will not have a significant economic impact on a substantial number of small entities.

Federalism

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

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water), Reporting and recordkeeping requirements, Waterways.

Regulations

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

PART 100—[AMENDED]

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

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

2. Part 100 is amended by adding a temporary § 100.35–T0911 to read as follows:

§ 100.35–T0911 Simcoe Landing, Lower Niagara River, Lake Ontario, Youngstown, NY.

(a) *Regulated area.* The Lower Niagara River bounded on the north by an east-west line from the Cribs on the north side of Fort Niagara to the International Boundary; on the south by an east-west line beginning at the International Boundary directly adjacent to the Niagara River Range Front Light (LLNR 2430) to the U.S. shoreline; on the east by the U.S. shoreline; and on the west by the International Boundary.

(b) *Special local regulations.* (1) The Coast Guard will be regulating all vessel navigation and anchorage in the regulated area. No person or vessel may enter or remain in the regulated area without the permission of the Coast Guard Patrol Commander, from 12 p.m. until 2 p.m. (e.d.s.t.) on July 4, 1992.

(2) The Coast Guard will patrol the regulated area under the direction of a designated Coast Guard Patrol Commander. The Patrol Commander may be contacted on channel 16 (156.8 MHZ) by the call sign "Coast Guard Patrol Commander." Any vessel, not authorized to participate in the event, desiring to transit the regulated area may do so only with prior approval of the Patrol Commander and when so directed by that officer. Transiting vessels will be operated at bare steerageway, and will exercise a high degree of caution in the area.

(3) The Patrol Commander may terminate the marine event or the operation of any vessel at any time it is deemed necessary for the protection of life and property.

Dated: June 5, 1992.

G.A. Penington,

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

[FR Doc. 92–14198 Filed 6–19–92; 8:45 am]

BILLING CODE 4910–14–M

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33 CFR Part 100

[CGD 05–92–24]

Special Local Regulations for Marine Events; Great American Music Festival Fireworks, Elizabeth River, Town Point, Norfolk and Portsmouth, VA

AGENCY: Coast Guard, DOT.

ACTION: Implementation of special local regulations.

SUMMARY: This notice implements 33 CFR 100.501 for the Great American Music Festival Fireworks Displays to be held in the Waterside area of the Elizabeth River between Norfolk and Portsmouth, Virginia. These special local regulations are needed to control vessel traffic within the immediate vicinity of Waterside due to the confined nature of the waterway and the expected vessel congestion during the event. The effect will be to restrict general navigation in the regulated area for the safety of participants and spectators.

EFFECTIVE DATES: The regulations in 33 CFR 100.501 are effective for the following periods: 8 p.m. to 11 p.m., July 3, 1992, 7:30 p.m. to 11 p.m., July 4, 1992. If inclement weather causes the postponement of the July 4, 1992 fireworks display, the regulations will be in effect from 7:30 p.m. to 11 p.m., July 5, 1992.

FOR FURTHER INFORMATION CONTACT: Stephen L. Phillips, Chief, Boating Affairs Branch, Fifth Coast Guard District 431 Crawford Street, Portsmouth, Virginia 23705 (804) 398–6204, or Commander, Coast Guard Group Hampton Roads (804) 483–8559.

Drafting Information

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

Discussion of Regulation

Norfolk Festevents, Ltd. has submitted an application to hold the Great American Music Festival July 3, and 4, 1992, in the Waterside area of the Elizabeth River. This area is covered by 33 CFR 100.501 and generally includes the waters of the Elizabeth River between Town Point Park, Norfolk, Virginia, the mouth of the Eastern Branch of the Elizabeth River, and Hospital Point, Portsmouth, Virginia. Since this event is of the type contemplated by this regulation and the safety of the participants and spectators viewing this event will be enhanced by the implementation of special local regulations for the Elizabeth River, 33 CFR 100.501 will be in effect during the Great American Music Festival. The waterway will be closed during the fireworks displays. Since the waterway will not be closed for an extended period, commercial traffic should not be severely disrupted. In addition to regulating the area for the safety of life and property, this notice of implementation also authorizes the Patrol Commander to regulate the operation of the Berkley drawbridge in accordance with 33 CFR 117.1007, and authorizes spectators to anchor in the special anchorage areas described in 33 CFR 100.72aa.

Dated: June 10, 1992.

W.T. Leland,

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

[FR Doc. 92–14610 Filed 6–19–92; 8:45 am]

BILLING CODE 4910–14–M

33 CFR Part 100

[CGD 05-92-23]

Special Local Regulations for Marine Events; Sharptown Outboard Regatta; Nanticoke River, Sharptown, MD

AGENCY: Coast Guard, DOT.

ACTION: Emergency rule.

SUMMARY: Special Local Regulations are being adopted for the Sharptown Outboard Regatta to be held on June 27 and 28, 1992, in the Nanticoke River at Sharptown, Maryland. These special local regulations are necessary to control vessel traffic in the immediate vicinity of this event. The effect will be to restrict general navigation in the regulated area for the safety of spectators and participants.

EFFECTIVE DATES: The regulations are effective for the following periods: 8 a.m. to 7 p.m., June 27, 1992. 8 a.m. to 7 p.m., June 28, 1992.

FOR FURTHER INFORMATION CONTACT: Stephen L. Phillips, Chief, Boating Affairs Branch, Fifth Coast Guard District, 431 Crawford Street, Portsmouth, Virginia 23704-5004 (804) 398-6204, or Commander, Coast Guard Group Eastern Shore (Operations) (804) 336-2891.

SUPPLEMENTARY INFORMATION: In accordance with 5 U.S.C. 553, a notice of proposed rulemaking has not been published for these regulations and good cause exists for making them effective in less than 30 days from the date of publication. Adherence to normal rulemaking procedures would not have been possible. Specifically, the sponsor's application to hold the event was not received in the district office until May 13, 1992, leaving insufficient time to publish a notice of proposed rulemaking in advance of the event.

Drafting Information

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

Background and Purpose

The Sharptown Recreation Council and the Carolina Virginia Racing Association submitted an application to hold the Sharptown Outboard Regatta. The race will consist of approximately 150 outboard powered boats under 14 feet in length racing over a closed course on the Nanticoke River. As part of the application, the Sharptown Recreation Council and the Carolina Virginia Racing Association requested that the Coast Guard provide control of spectator and river traffic within the regulated area.

Discussion of Regulations

These regulations will regulate the area surrounding the Sharptown Outboard Regatta. The oval shaped race course runs along the downtown areas of Sharptown, Maryland on the Nanticoke River. These regulations are necessary to control spectator craft and to provide for the safety of life and property on navigable waters during the event. Marine traffic will be allowed to transit the regulated area between heats. Since the main channel will not be closed for extended periods of time, river traffic should not be severely disrupted.

Regulatory Evaluation

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

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard must consider whether this regulation will have a significant economic impact on a substantial number of small entities. "Small Entities" include independently owned and operated small businesses that are not dominant in their field and that otherwise qualify as "small business concerns" under section 3 of the Small Business Act (15 U.S.C. 632). Since the impact of this rule on non-participating small entities will be minimal, the Coast Guard certifies under 5 U.S.C. 605(b), that this rule will not have a significant economic impact on a substantial number of small entities.

Federalism Assessment

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

Environmental Assessment

This final rule has been thoroughly reviewed by the Coast Guard and determined to be categorically excluded from further environmental documentation in accordance with section 2.B.2.c of Commandant Instruction M16475.1B. A Categorical Exclusion Determination statement has been prepared and been placed in the rulemaking docket.

List of Subjects in 33 CFR Part 100

Marine Safety, Navigation (water).

Proposed Regulations

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

PART 100—[AMENDED]

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

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

2. A temporary § 100.35-T0523 is added to read as follows:

§ 100.35-T0523 Nanticoke River, Sharptown, Maryland.

(a) *Definitions*—(1) *Regulated area.* The waters of Nanticoke River from shoreline to shoreline bounded to the northeast by a line drawn from latitude 36°59'49" North, longitude 76°17'20" West; to latitude 36°59'01" North, longitude 76°10'38" West; and bounded to the southeast by a line drawn from latitude 36°59'49" North, longitude 76°17'20" West; to latitude 36°59'01" North, longitude 76°10'38" West.

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

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

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

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

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

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

(4) The Coast Guard Patrol Commander may allow vessels to transit

the regulated area whenever a race heat is not being run.

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

(c) *Effective periods.* The regulations are effective for the following periods: 8 a.m. to 7 p.m., June 27, 1992. 8 a.m. to 7 p.m., June 28, 1992.

Dated: June 10, 1992.

W. T. Leland,

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

[FR Doc. 92-14694 Filed 6-19-92; 8:45 am]

BILLING CODE 4910-14-M

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33 CFR Parts 100, 110 and 165

[CGD1-91-157]

Temporary Regulations, Port of New York and New Jersey, July 2-5, 1992

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is adopting temporary regulations for the Port of New York and New Jersey for the Operation Sail 1992 (OPSAIL '92) activities of July 2-5, 1992. The temporary regulations, consisting of special local regulations for two "Parades of Sail", anchorage regulations for spectator craft and participating vessels, and a safety zone for a fireworks display, are necessary to conduct these activities in a safe and orderly manner.

The temporary regulations are issued to augment the regulations contained in title 33, Code of Federal Regulations which govern navigation in the Port of New York and New Jersey. The temporary regulations will have an impact on navigation during the period from 6 a.m., July 2 to 12 p.m., July 5, 1992, but they are the minimum necessary to ensure safety during the hazardous conditions that will be occasioned by the arrival of a large number of sailing vessels and spectator craft participating in and observing the event, OPSAIL '92.

EFFECTIVE DATES: These regulations are effective as listed below: Section 100.35T01-158 (Parade of Sail) is effective on July 3, 1992, from 11:45 a.m. to 6 p.m.; § 100.35T01-159 (Parade of Tall Ships) is effective from 6 a.m., July 4, 1992, to 3 a.m., July 5, 1992; § 110.155 (Anchorage regulations, Port of New York) is temporarily amended effective from 6 a.m., July 2, 1992, to 11:59 a.m., July 5, 1992; § 110.T01-160 (New York Harbor, Narrows Temporary Anchorage) is effective from 12 p.m., July 2, 1992, to 11:59 a.m., July 5, 1992; § 165.T01-161 (Safety Zone: Upper Bay, New York and New Jersey) is effective from 8 p.m., July 4, 1992, to 3 a.m., July 5, 1992.

FOR FURTHER INFORMATION CONTACT: Lieutenant C.W. Jennings, Operation Sail Project Officer for Captain of the Port, New York at (212) 668-7737.

SUPPLEMENTARY INFORMATION:

Drafting Information

The principal persons involved in drafting this document are LT C.W. Jennings, Project Manager, Coast Guard Group New York and LCDR J. Astley, Project Counsel, First Coast Guard District Legal Office.

Regulatory History

On March 25, 1992, the Coast Guard published a notice of proposed rulemaking entitled "Temporary Regulations, Port of New York and New Jersey, 2-5 July 1992" in the **Federal Register** (57 FR 10308). The Coast Guard received five (5) letters commenting on the proposal. A public hearing was not requested and one was not held.

Background and Purpose

The Coast Guard is establishing temporary regulations for the Port of New York and New Jersey, including the Lower Bay, Upper Bay, East River and Hudson River, for OPSAIL '92. The regulations provide specific guidance on temporary anchorage regulations, vessel movement controls, and safety zones that will be in effect at various times in those waters during the period July 2 through 5, 1992.

The actual OPSAIL '92 celebration will commence with a "Parade of Sail" from Western Long Island Sound to the Lower Bay, via the East River and Upper Bay, on July 3, 1992. This parade will involve approximately 70 class "B" and "C" sailing vessels. After arriving in the Lower Bay these vessels will moor in specially designated anchorages in Gravesend and Sandy Hook Bays.

On the morning of July 4, 1992, a "Parade of Tall Ships" will commence at the Verrazano Bridge and will involve up to 300 class "A" (vessels 175 feet and greater), "B" (vessels greater than 100 feet but less than 175 feet) and "C" (vessels 100 feet or less) sailing vessels proceeding through the Upper Bay and Hudson River to the vicinity of the George Washington Bridge, then returning down the Hudson River to previously assigned berths and moorings. That same evening a fireworks and laser display is planned that will impact all of the waters around the southern tip of Manhattan, from the Brooklyn Bridge on the East River to Battery Park City on the Hudson River.

The purpose of the regulations is to enhance maritime safety and protect the boating public in the Port of New York and New Jersey immediately prior to, during, and after the scheduled events. The regulations will impact the movement of all vessels operating in the Port, maintain clear parade routes for the participating vessels, establish sufficient buffer areas around the planned fireworks display to ensure no one is injured by falling and possibly burning debris, and provide anchorage areas where participants and spectators can safely moor.

All vessel operators and passengers are reminded that, in addition to the safety equipment requirements for all pleasure craft, vessels carrying passengers must comply with certain additional rules and regulations. When a vessel is not being used exclusively for pleasure purposes but rather is engaged in carrying passengers, the vessel operator must possess an appropriate license and the vessel is subject to inspection. While the legal definition of the word "passenger", found in 46 U.S.C. 2101(21), varies depending on type of vessel involved, in general, it means any person who has contributed any consideration (monetary or otherwise) either directly or indirectly for carriage on board the vessel. The same laws provide substantial penalties for any violation. If you have any questions concerning the application of the above laws to your particular case, you should either write the U.S. Coast Guard Marine Inspection Office, Battery Park Building, New York, NY 10004 or telephone (212) 668-7494 for information.

In addition to the safety zone noted in these regulations it may be necessary for Captain of the Port, New York to establish security zones to safeguard dignitaries and, possibly, certain vessels participating in the event. If the Coast Guard deems it necessary, at a later date, to establish security zones, the details of those zones will be disseminated separately via the **Federal Register**, Local Notice to Mariners, Safety Voice Broadcasts and any other means available.

It is evident that with the many sailing vessels arriving in the Port of New York and New Jersey for this event, it will be necessary to curtail normal port operations to some extent. This interference will be kept to the minimum considered necessary to ensure safety and to facilitate the success of OPSAIL '92.

It is recommended that vessel operators visiting the Port of New York and New Jersey for this event obtain up to date editions of the following charts

of New York Harbor: Nos. 12334, 12335, 12339, 12401 and 12402. You are further advised to expect large crowds and significant congestion in the available anchorage space. Also, you must have sufficient facilities on board your vessel to retain all garbage and untreated sewage. Discharge of either in any waters of the United States, which includes all waters addressed in this rule, is strictly forbidden. Violators may be assessed civil penalties up to $25,000.

Discussion of Comments and Changes

All five letters received concerning this rule were from established charter and ferry boat operators in the Port of New York and New Jersey. All were concerned about how the regulations would impact their operation during the event and all sought some measure of relief from compliance with same so they could continue to operate. The five letters were received from the following businesses:

The operators of the vessels "Spirit of New York" and "Spirit of New Jersey" submitted a copy of their normal operating schedule and inquired how it would be impacted by the event. Each vessel runs three harbor tours daily. The "Spirit of New York" operates from Pier 9, Manhattan and the "Spirit of New Jersey" operates from Lincoln Harbor Marina, Weehawken, New Jersey.

The operators of the Port Imperial Ferry Bus System submitted a copy of their operating schedule and route and stated they felt the parade would interfere with their normal operations. The Port Imperial ferry operates a shuttle service between Weehawken, New Jersey and midtown Manhattan. This conflict was anticipated and addressed in the NPRM for this rule. All concessions that could be made for this ferry operation were written into the original Notice and are reiterated in this rule.

The operators of the Seaport Line submitted a copy of their schedule and inquired how it would be impacted by the event. The Seaport Line runs hourly harbor cruises on the vessels "Andrew Fletcher" and "DeWitt Clinton" from Pier 17, Manhattan.

The operators of the TNT Hydroline ferry service submitted a copy of their schedule and inquired how it would be impacted by the event. This ferry service operates between Atlantic Highlands in New Jersey, 69th Street in Brooklyn and Pier 11 in Manhattan.

New York Cruise Lines, Inc. which operates World Yacht Cruises, Circle Line Sightseeing Yachts, Inc. and manages properties which accommodate several other charter yachts requested the establishment of commercial transit lanes along the parade routes in which spectator vessels could operate. The establishment of such lanes was examined by the Coast Guard during the development of the NPRM for this rule. However, due to the expected congestion on the rivers from the vessels participating in the parades and the negative comments received from Coast Guard members involved in the 1986 OPSAIL celebration regarding their attempts to enforce such an operation, establishing such lanes or free zones along the parade routes was not considered to be an acceptable or safe option.

In light of the information received the Coast Guard will authorize deviations from the regulations on a case by case basis to minimize the impact on vessel operators. Unfortunately, no operator can be granted complete immunity from the regulations due to the complexity of the operation. However, every effort will be made to allow operators to continue to operate their services without jeopardizing the safety and security of the celebration. It should be noted that the impact on normal ferry/harbor cruise services in the port is only for an approximate 5 hour period on Saturday, the 4th of July.

Federal Anchorage No. 19, as described in § 110.155(c)(5) of this title, was presented in the NPRM as an anchorage area that would be available to recreational and commercial spectator craft. Due to the width of the parade on July 4, vessels anchored in this area would create a hazard to the passing parade vessels. Therefore, use of this anchorage has been suspended for the period 12 p.m. on July 2, 1992, until 11:59 a.m. on July 5, 1992. The final rule has been amended to reflect this change.

The dimensions of the safety zone established for the fireworks on the evening of July 4th has been modified slightly. Due to negotiations between the City of New York and the fireworks sponsor, Macy's Department Stores, the display was moved further north on the Hudson River to enhance shoreside viewing. Therefore, the safety zone established in this rule for the display has been expanded one half mile north on the Hudson River, from 40° 43′ N to 40° 43′ 30″ N line of latitude, all other parameters remain the same. The final rule has been amended to reflect this change.

A new regulation has been added for the "Parade of Sail" on July 3, for vessels defined as "Spectator Vessels". The new regulation allows "Spectator Vessels" to join the parade along the parade route without having to obtain authorization, as long as the maneuver can be conducted safely. This new regulation was prompted by numerous phone requests received from the boating public who wished to join the parade as was done during OPSAIL '86. After careful review of how this segment of the maritime community could be safely accommodated, it was proposed that allowing them to enter the regulated areas in the direction and speed of the parade was an acceptable option. Given the size of the actual parade, approximately 70 vessels, and the number Coast Guard resources available to monitor vessel movement it was decided that the maneuver could be conducted without jeopardizing the safety of the event. This option is not available to vessel operators on July 4, 1992, due to numerous safety concerns relative to the "Parade of Tall Ships" event. Those concerns include the expected increase in spectator vessel population in the Port and the number and size of vessels participating in the parade.

Regulatory Evaluation

This proposal is not major under Executive Order 12291 and not significant under Department of Transportation Regulatory Policies and Procedures (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this proposal to be so minimal that a Regulatory Evaluation is unnecessary.

The regulations will be in effect for only portions of a four day period. The most heavily impacted day is July 4, 1992, which is a federal holiday and historically a day in which numerous waterway closures and disruptions occur in the Port because of smaller celebrations. Commercial traffic will be prohibited from operating in Upper New York Bay for only a portion of the affected period. Moreover, at no time will commercial shipping access to Port Newark/Port Elizabeth facilities be prohibited. Access to those areas may be accomplished using the Raritan Bay, Arthur Kill, Kill Van Kull, and Newark Bay as an alternate route. This will allow the majority of the maritime industrial activity in the Port of New York and New Jersey to continue, relatively unaffected. It is also expected that the amount of publication and advertisement about this event and, in particular, these regulations will allow the industry to adjust their schedules so as to minimize expected impacts. Also, it is expected that OPSAIL '92 will attract numerous boaters and tourists to the area which would have a favorable economic impact on commercial activities in the Port, as a whole.

The Staten Island Ferry and other scheduled ferry services which normally operate in the Port will be curtailed or have their route modified for only the minimum amount of time necessary, approximately 5 hours, to ensure safe operation during the increased harbor activities.

Small Entities

For the reasons already specified in the Regulatory Evaluation section of this proposal the Coast Guard expects the final rule will only have a minimal adverse impact on all entities operating in the area. Therefore, the Coast Guard certifies under 5 U.S.C. 605(b) that this final rule will not have a significant impact on a substantial number of small entities.

Collection of Information

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

Federalism

The Coast Guard has analyzed this rule in accordance with the principles and criteria contained in Executive Order 12612 and has determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environment

The Coast Guard has considered the environmental impact of this proposal and concluded that under section 2.B.2.c. of Commandant Instruction M16475.1B, this proposal is categorically excluded from further environmental documentation. A Categorical Exclusion Determination is available in the docket for inspection and copying where indicated under "**ADDRESSES.**"

List of Subjects

33 CFR Part 100

Marine safety, Navigation (water), Reporting and recordkeeping requirements, Waterways.

33 CFR Part 110

Anchorage grounds.

33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Vessels, Waterways.

For reasons set out in the preamble, the Coast Guard is amending 33 CFR parts 100, 110 and 165 as follows:

PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

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

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

2. Temporary § 100.35T 01–158 is added to read as follows:

§ 100.35T 01–158 Parade of Sail, Port of New York and New Jersey, July 3, 1992.

(a) *Definitions.* As used in this section and §§ 100.35T 01–159, 110.155, 110.T 01–160, and 165.T 01–161 of this title:

(1) *Commander, Coast Guard Forces New York* means Commander, Coast Guard Group/Captain of the Port, New York, the Coast Guard officer charged with the overall responsibility for the enforcement and safe conduct of the waterside operations attendant to the OPSAIL '92 event.

(2) *Cognizant Coast Guard Group Commander* means the Coast Guard officer charged with the enforcement of the regulations in this section, in addition to his normal duties, within the waters affected. In all waters north of the Verrazano Bridge this term refers to Commander, Coast Guard Group New York, or his designated representative. In all waters south of the Verrazano Bridge this term refers to Commander, Coast Guard Group Sandy Hook, or his designated representative.

(3) *Main Ship Channels* includes all waters of the Anchorage Channel, Buttermilk Channel, and the waters south of the Brooklyn Bridge and north of Governors Island in the Upper Bay, and all waters of the Lower Hudson River north of the Battery and south of Spuyten Duyvil Creek. It does not include any waters described as an anchorage in § 110.155.

(4) *OPSAIL '92 Vessels* includes all vessels participating in Operation Sail 1992 under the auspices of the Marine Event Permit submitted by OPERATION SAIL 1992, Inc. and approved by Commander, First Coast Guard District.

(5) *Parade of Sail* is the southbound procession of class "B" and "C" "OPSAIL '92 Vessels" as they navigate designated routes in the Port of New York and New Jersey on July 3, 1992.

(6) *Spectator Vessels* includes any vessel, commercial or recreational, being used for pleasure or carrying passengers, that is in the Port of New York and New Jersey to observe part or all of the events attendant to OPSAIL '92.

(7) *Parade of Tall Ships* is the procession of class "A", "B" and "C" "OPSAIL '92 Vessels" as they navigate designated routes in the Port of New York and New Jersey on July 4, 1992.

(b) *Regulated areas.*

Note: See chartlets III and V in Appendix A to this section.

(1) *Area "A".* All waters of the East River, shore to shore, west of the Throgs Neck Bridge and north of a line drawn along the 40° 42′ 02″N line of latitude between Brooklyn, New York and Manhattan, New York.

(2) *Area "B".* All waters of the Upper Bay east of the following line which commences on Pier 9, Manhattan at:

Latitude	*Longitude*
40° 42′ 02.0″ N	74° 00′ 32.0″ W
40° 41′ 29.0″ N	74° 00′ 45.0″ W

thence along the east shore of Governors Island to:

40° 41′ 03.5″ N	74° 01′ 33.0″ W
40° 39′ 49.5″ N	74° 01′ 21.5″ W
40° 38′ 44.5″ N	74° 02′ 29.0″ W
40° 37′ 25.0″ N	74° 03′ 03.0″ W
40° 36′ 28.0″ N	74° 02′ 34.0″ W

then east-northeast to the shoreline in Brooklyn, New York.

(c) *Special local regulations.* (1) No vessel, except those specifically exempted, may enter or navigate within regulated Areas "A" and "B" unless they are authorized to do so by Commander, Coast Guard Forces New York or his designated representative. Authorization may be obtained by contacting Coast Guard Group New York on channel 21 VHF–FM. Any vessel authorized to enter regulated Areas "A" or "B" must not, under any circumstances, cross through the "Parade of Sail", cross within 500 yards of the lead or last vessel in that parade, or maneuver alongside within 100 yards of any "OPSAIL '92 Vessel".

(2) No vessel is permitted to transit Area "A" northbound unless it can be clear of Rikers Island by 12 p.m., July 3, 1992.

(3) Operators of "spectator vessels" who wish to join the "Parade of Sail" along its parade route may do so at any time, as long as they do not disrupt the parade or hazard any other vessel and can safely integrate their vessel into the flow of traffic. Whenever "Spectator Vessels" join the parade they must do so by entering the regulated area in the general direction and speed of the parade and must maintain their position in the formation until they depart the regulated area.

(4) Circle Line ferries are exempt from the regulation in this section during scheduled operations, except, ferries are only authorized to travel southbound on the East River for the duration of the regulation in this section. At no time will a ferry be permitted to cross through the "Parade of Sail", cross within 500 yards of the lead or last vessel in that parade,

or maneuver alongside within 100 yards of any "OPSAIL '92 Vessel".

(5) City of New York, Department of Sanitation barges, while engaged in normal sanitation service, are exempt from the regulations in this section when engaged in southbound transits only. At no time will a sanitation barge be permitted to cross through the "Parade of Sail", cross within 500 yards of the lead or last vessel in that parade, or maneuver alongside within 100 yards of any "OPSAIL '92 Vessel".

(6) Seaplane operations. The operation of seaplanes, including taxiing, landing, and taking off, is prohibited in regulated Areas "A" and "B" for the duration of the regulation in this section.

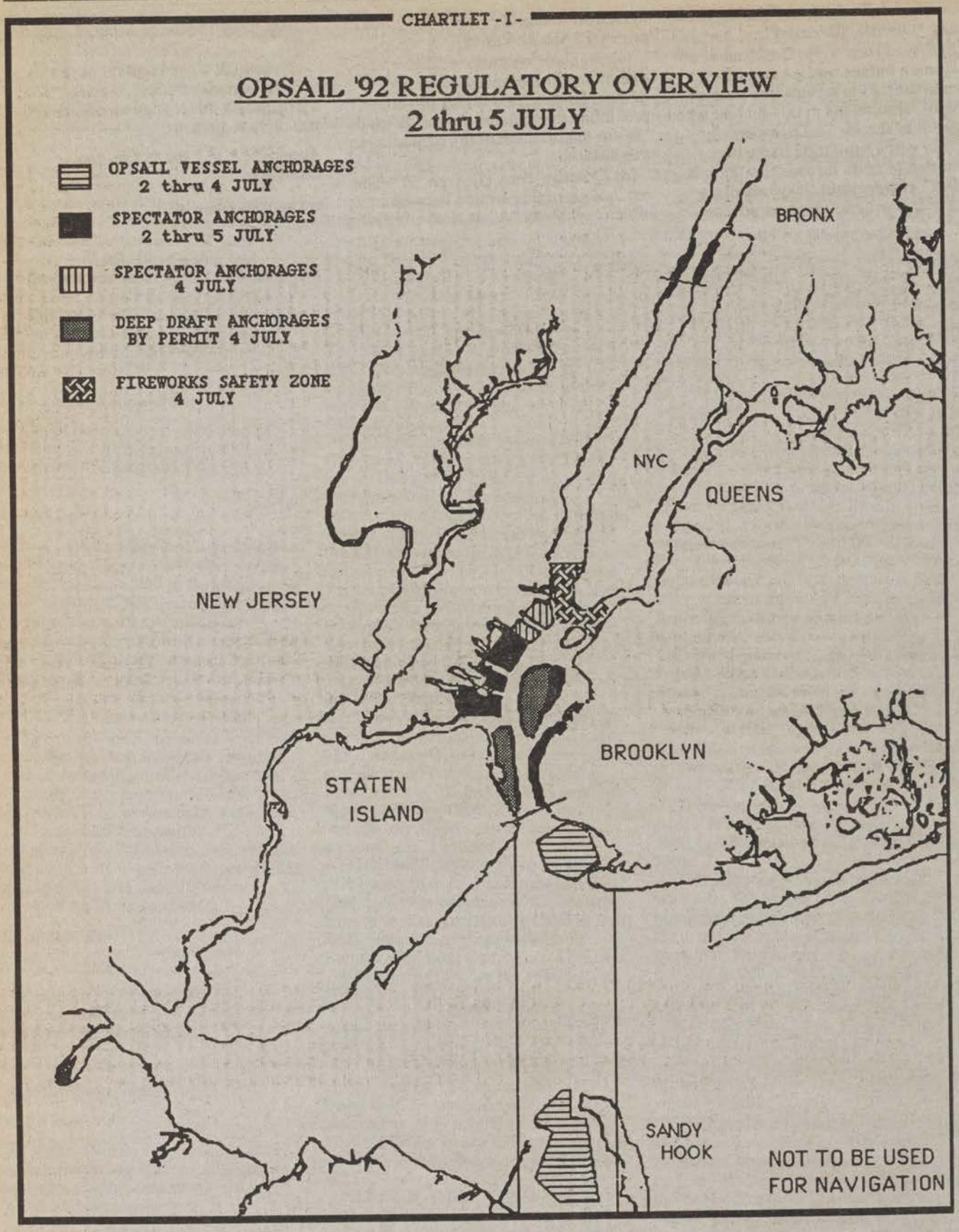
(d) *Effective date.* (1) *Area "A".* The regulations in this section become effective in Area "A" at 11:45 a.m., July 3, 1992. They terminate at 6 p.m., July 3, 1992.

(2) *Area "B".* The regulations in this section become effective in Area "B" at 2 p.m., July 3, 1992. They terminate at 6 p.m., July 3, 1992.

Appendix A to § 100.35T 01-158—Chartlets

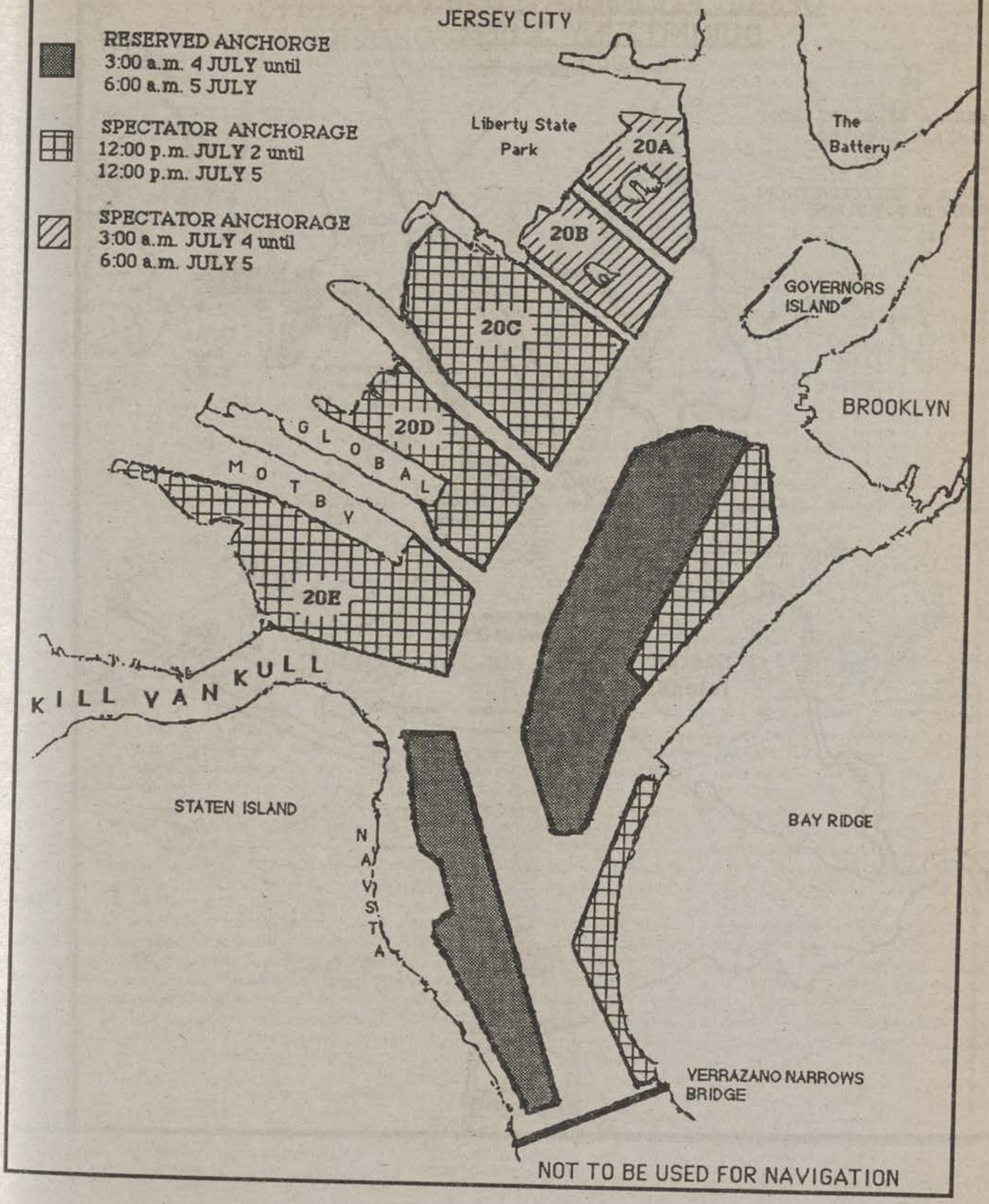
BILLING CODE 4910-14-M

CHARTLET - I -

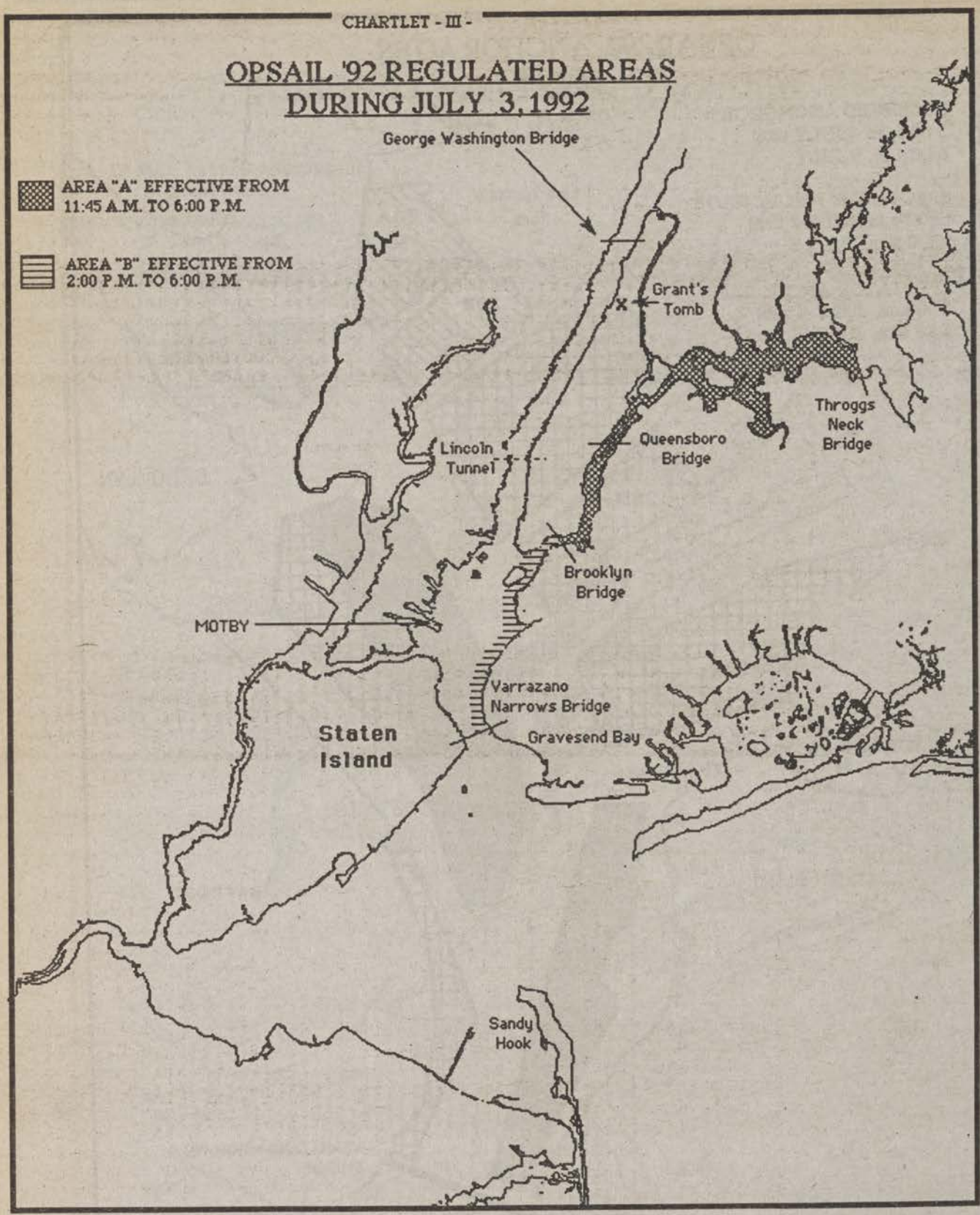

OPSAIL '92 REGULATORY OVERVIEW
2 thru 5 JULY
OPSAIL VESSEL ANCHORAGES 2 thru 4 JULY
SPECTATOR ANCHORAGES 2 thru 5 JULY
SPECTATOR ANCHORAGES 4 JULY
DEEP DRAFT ANCHORAGES BY PERMIT 4 JULY
FIREWORKS SAFETY ZONE 4 JULY
BRONX
NYC
QUEENS
NEW JERSEY
BROOKLYN
STATEN ISLAND
SANDY HOOK
NOT TO BE USED FOR NAVIGATION

CHARTLET - II -

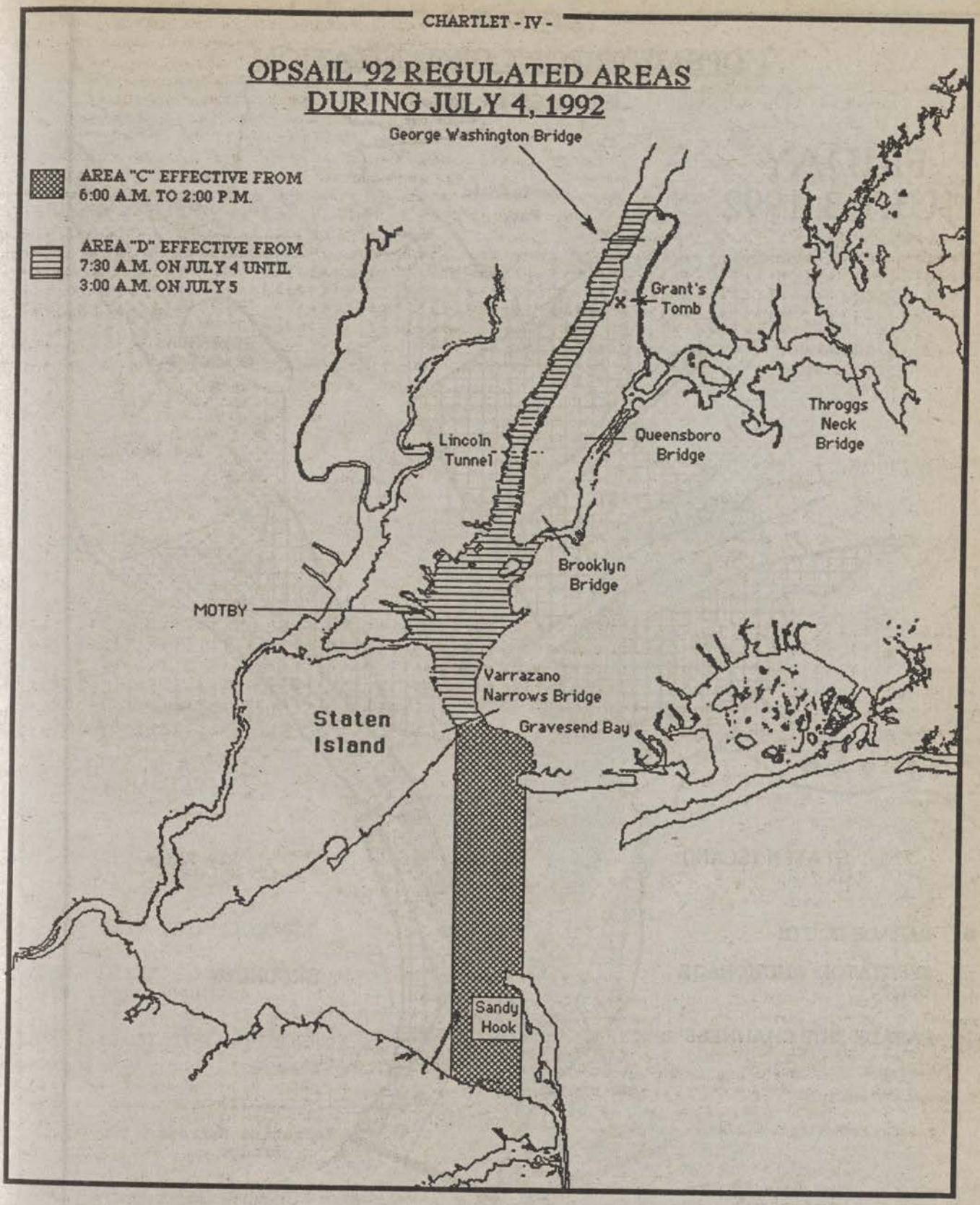
OPSAIL '92 ANCHORAGES



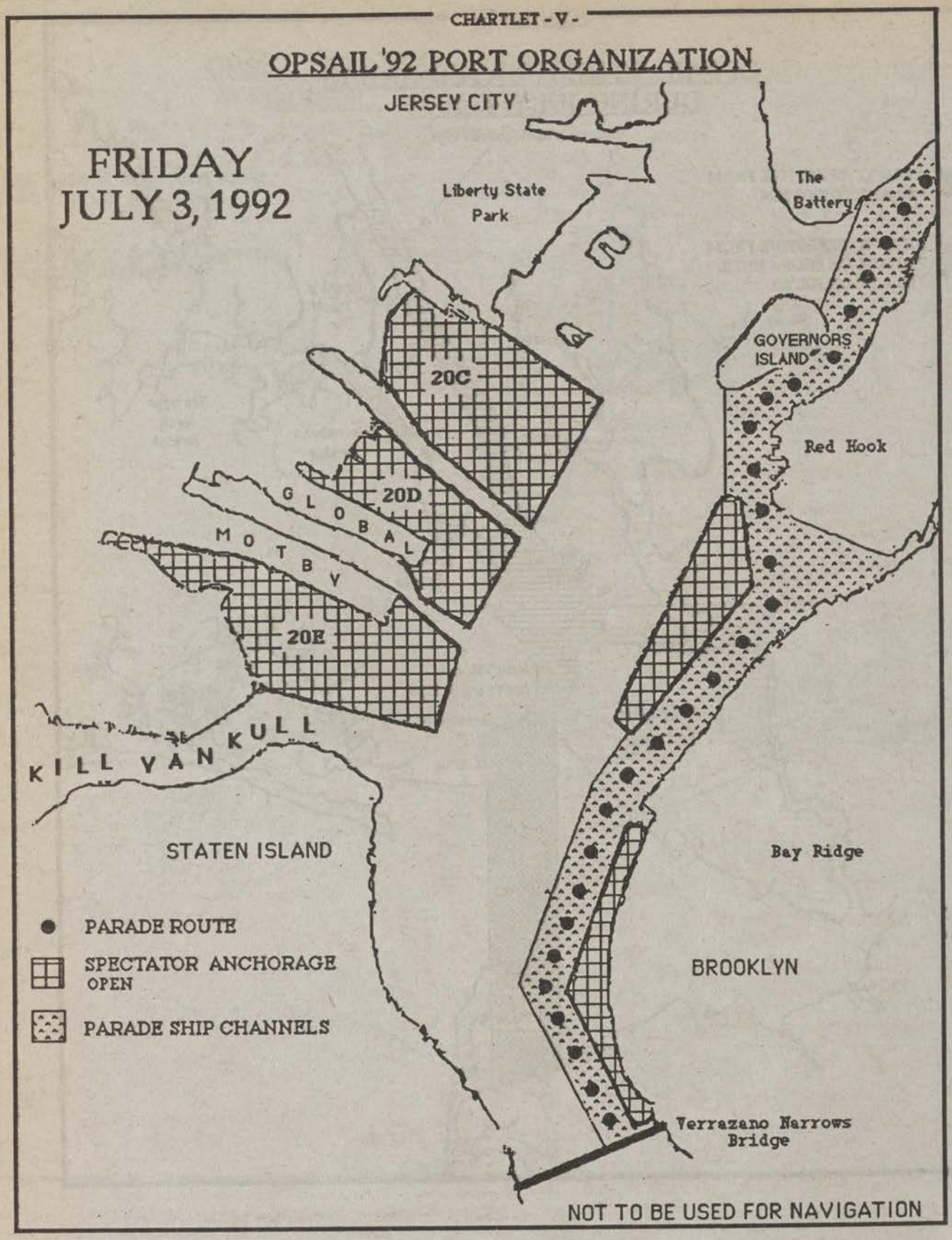
CHARTLET - III -



CHARTLET - IV -

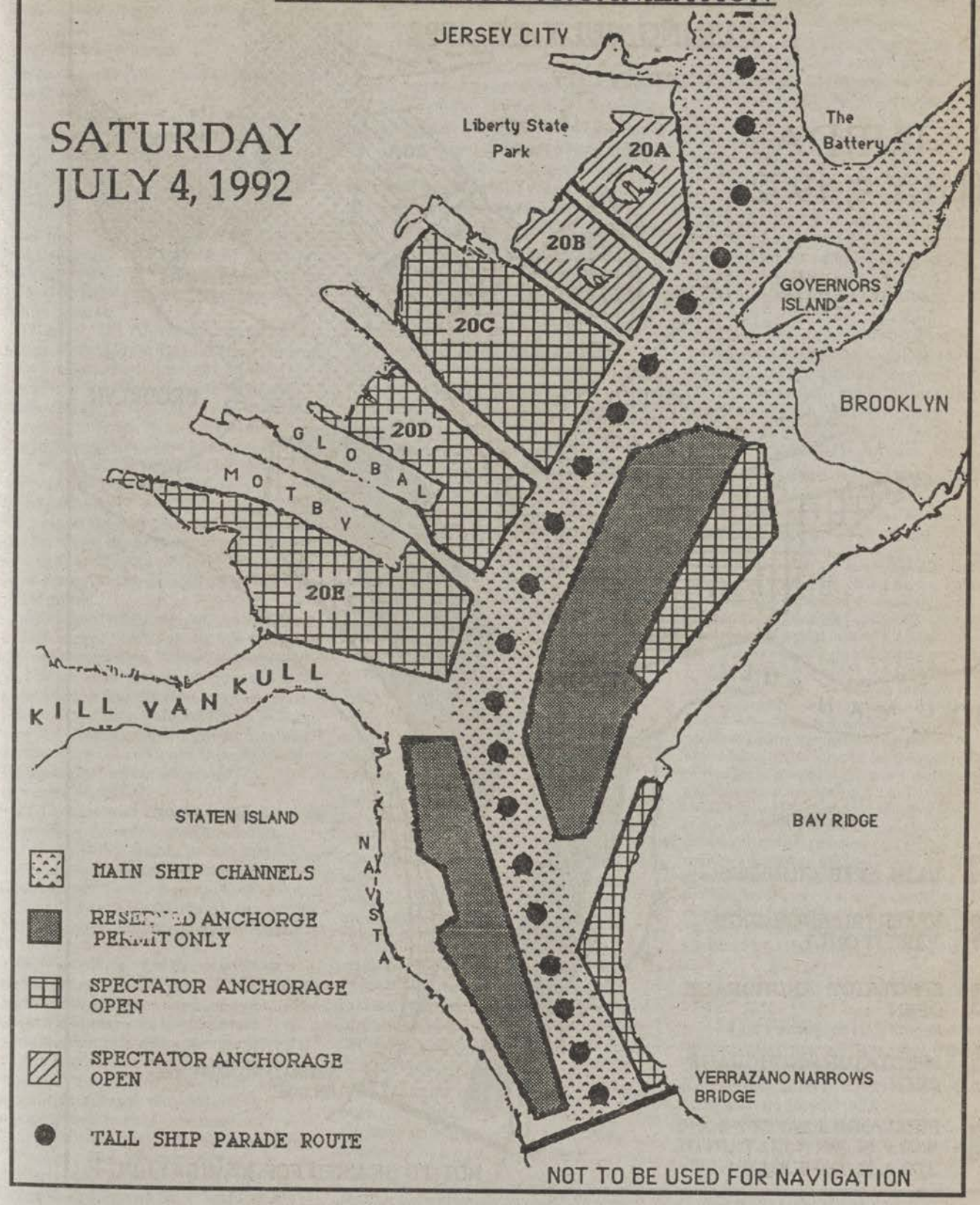

OPSAIL '92 REGULATED AREAS
DURING JULY 4, 1992
AREA "C" EFFECTIVE FROM 6:00 A.M. TO 2:00 P.M.
AREA "D" EFFECTIVE FROM 7:30 A.M. ON JULY 4 UNTIL 3:00 A.M. ON JULY 5
George Washington Bridge
Grant's Tomb
Throggs Neck Bridge
Queensboro Bridge
Lincoln Tunnel
Brooklyn Bridge
MOTBY
Varrazano Narrows Bridge
Gravesend Bay
Staten Island
Sandy Hook

CHARTLET - V -

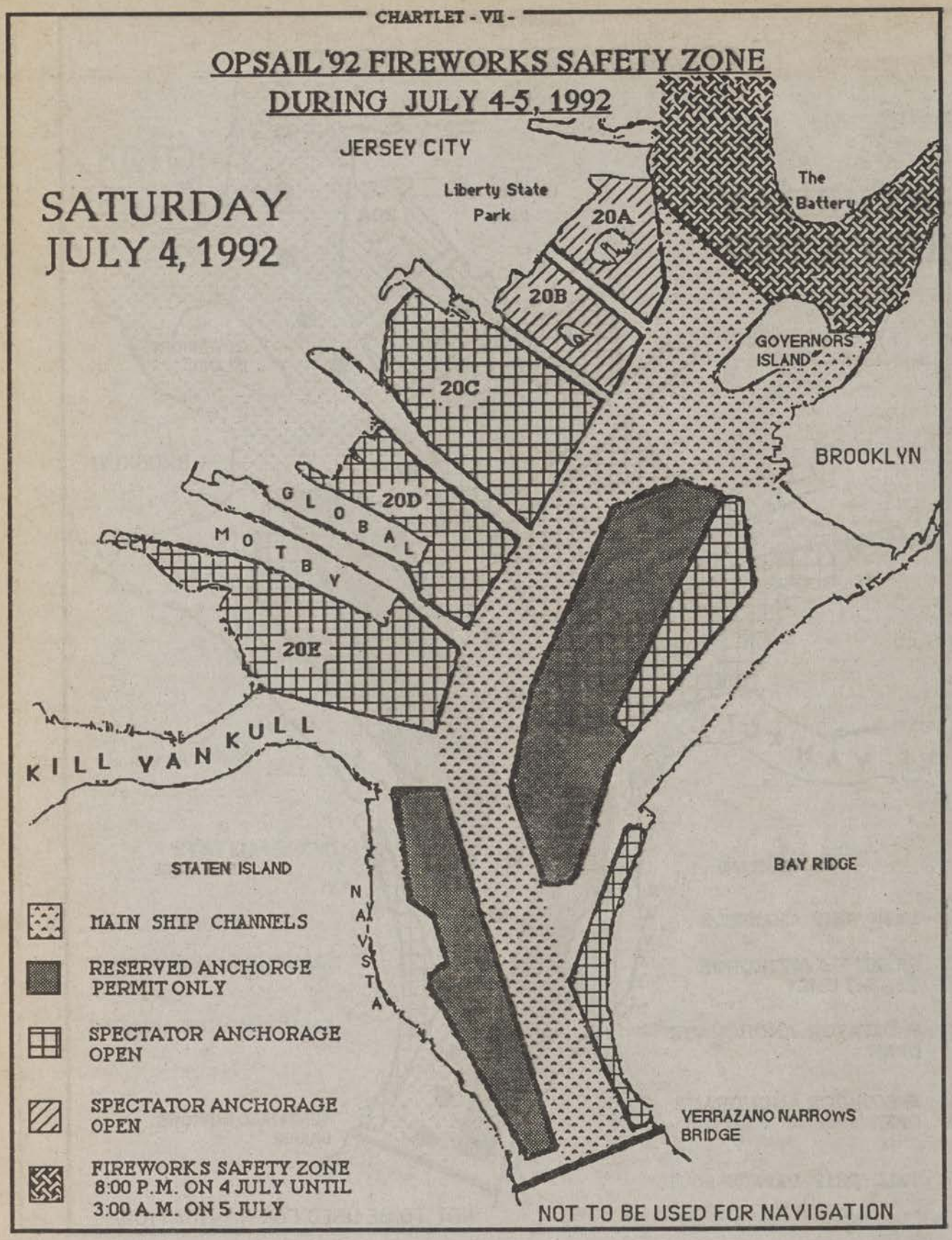

OPSAIL '92 PORT ORGANIZATION
FRIDAY
JULY 3, 1992
JERSEY CITY
Liberty State Park
The Battery
GOVERNORS ISLAND
Red Hook
20C
20D
20E
GLOBAL
MOTBY
KILL VAN KULL
STATEN ISLAND
Bay Ridge
BROOKLYN
Verrazano Narrows Bridge
PARADE ROUTE
SPECTATOR ANCHORAGE OPEN
PARADE SHIP CHANNELS
NOT TO BE USED FOR NAVIGATION

CHARTLET - VI -

OPSAIL '92 PORT ORGANIZATION



CHARTLET - VII -



BILLING CODE 4910-14-C

3. Temporary § 100.35T 01–159 is added to read as follows:

§ 100.35T 01–159 OPSAIL '92 Events, Ports of New York and New Jersey, July 4, 1992.

(a) *Regulated areas.*

Note: See chartlets IV and VI in appendix A to § 100.35T 01–158.

(1) *Area "C".* All waters of the Lower Bay and Sandy Hook Bay within the following boundaries: south of the Verrazano Bridge; west of a line drawn shore to shore along the 074°00'00" W line of longitude between Navesink, New Jersey and Coney Island, New York; and east of a line drawn shore to shore along the 074°03'12" W line of longitude between New Jersey and Staten Island.

(2) *Area "D".* All waters, shore to shore, of the Upper Bay and the Hudson River within the following boundaries: south of a line drawn shore to shore along the 40°52'39.2" N line of latitude between Inwood, New York and Englewood Cliffs, New Jersey; south of a line drawn along the 40°42'02" N line of latitude between Brooklyn, New York and Manhattan, New York; north of the Verrazano Bridge; and east of line drawn shore to shore between Staten Island, New York and Constable Hook, New Jersey along the 074°05'15" W line of longitude.

(b) *Special local regulations.* (1) No vessel except "OPSAIL '92 Vessels" and their assisting tugs, "Spectator vessels' and those vessels exempt from the regulation in this section, may enter or navigate within regulated Areas "C" and "D", unless specifically authorized by the "Cognizant Coast Guard Group Commander" or his on-scene representative.

(2) Commercial vessels, not defined as "Spectator vessels", which need to transit Area "C" must contact and obtain permission from commander, Coast Guard Group Sandy Hook or his designated representative on channel 81 VHF–FM, prior to entering that Area "C".

(3) "Spectator vessels" transiting regulated Areas "C" and "D" must do so at no wake speed or at speeds not to exceed 6 knots, whichever is less.

(4) Not withstanding paragraph (b)(1) of this section, no vessel, other than "OPSAIL '92 Vessels" and their assisting tugboats, may enter or navigate within the boundaries of the "Main ship channels" in regulated Area "D" unless they are specifically authorized to do so by "Commander, Coast Guard Forces New York" or his designated representative. Authorization may be obtained by contacting Coast Guard Group New York on channel 21 VHF–FM. Any vessel authorized to enter Area "D" during the "Parade of Tall Ships" must not, under any circumstances, cross through the parade, cross within 500 yards of the lead or last vessel in that parade, or maneuver alongside within 100 yards of any "OPSAIL '92 Vessel".

(5) No vessel is permitted to anchor in the "Main ship channels" at any time. Vessels which need to anchor to maintain position will only do so in designated anchorage areas.

(6) No vessel, other than "OPSAIL '92 vessels" and enforcement vessels, is permitted to transit the waters between Governors Island and The Battery in South Manhattan. Vessels which must transit to or from the East River may only do so by using the Buttermilk Channel via the southern tip of Governors Island, unless otherwise authorized by "Commander, Coast Guard Forces New York" or his designated representative.

(7) The City of New York Staten Island ferries are exempt from the regulations in this section while engaged in scheduled ferry service between St. George Terminal, Staten Island, New York and The Battery in Manhattan, New York except, at no time will a ferry be permitted to cross through the "Parade of Tall Ships", cross within 500 yards of the lead or last vessel in that parade, or maneuver alongside within 100 yards of any "OPSAIL '92 Vessel".

(8) The Port Imperial ferry service, which operates between Weehawken, New Jersey and Pier 76, Manhattan, is exempt from the regulations in this section while engaged in scheduled ferry service between those points, except, at no time will a ferry be permitted to cross through the "Parade of Tall Ships", cross within 500 yards of the lead or last vessel in that parade, or maneuver alongside within 100 yards of any "OPSAIL '92 Vessel".

(9) *Seaplane Operations.* The operation of seaplanes, including taxiing, landing, and taking off, is prohibited in regulated Areas "C" and "D" for the duration of the regulations in this section.

(c) *Effective dates.* (1) *Area "C".* The regulations in this section become effective at 6 a.m., July 4, 1992. They terminate at 2 p.m., July 4, 1992.

(2) *Area "D".* The regulations in this section become effective at 7:30 a.m., July 4, 1992. They terminate at 3 a.m., July 5, 1992.

PART 110—ANCHORAGE REGULATIONS

4. The authority citation for part 110 continues to read as follows

Authority: 33 U.S.C. 471, 2030, 2035 and 2071; 49 CFR 1.46 and 33 CFR 1.05–1(g). Section 110.1a and each section listed in section 110.1a are also issued under 33 U.S.C. 1223 and 1231.

5. Section 110.155 is temporarily amended by suspending for the period from 6 a.m. on July 2, 1992, until 11:59 a.m. on July 5, 1992, paragraphs (c)(5), (d)(6), (d)(7), (d)(8), (d)(9), and (m)(2); by adding Notes 1 and 2 to the beginning of the section; by adding paragraphs (c)(1)(ii), (c)(2)(ii), (c)(3)(ii), (c)(4)(ii), (d)(11)(iii), (d)(12)(iii), (d)(13)(vi), (d)(14)(iv), (d)(15)(iii), (e)(1)(iii), (e)(1)(iv), and (f)(4); and, by revising paragraphs (d)(1), (d)(2), (d)(3), (d)(4), (d)(5), (d)(10)(i), introductory text of (d)(16), the note to the introductory text of paragraph (f)(1), and the first sentence of paragraph (n)(1) to read as follows: § 110.155 *Port of New York.*

Note 1: See chartlets I, II, V, VI and VII in appendix A to § 100.35T 01–158.

Note 2: Mariners are cautioned that the areas designated as anchorage grounds for the purpose of the regulation in this section have not been subject to any special survey or inspection and that charts may not show all seabed obstructions or the shallowest depths. In addition, the anchorages are in areas of substantial currents, and not all anchorages are over good holding ground. Mariners are advised to take appropriate precautions when using these temporary anchorages. These are not special anchorage areas. Vessels must display anchor lights, as required by the navigation rules. The anchorages in paragraphs (c) through (d)(10) of this section and the Narrows temporary anchorage established in § 110.T01–160 are available to "Spectator vessels" on a first come first served basis. The anchorages in paragraphs (d)(11) through (15) of this section require a permit to anchor, issued by Captain of the Port, New York. The anchorages in paragraph (e) and (f)(4) of this section are established for the exclusive use of "OPSAIL '92 Vessels". The definitions set forth in § 100.35T 01–158(a) apply to this section.

* * * * *

(c) * * *

(1) * * *

(ii) This anchorage is designated for the exclusive use of "Spectator vessels". This designation will commence at 12 p.m. on July 2, 1992. It will terminate at 11:59 a.m. on July 5, 1992. Upon termination or when directed by Captain of the Port, New York each vessel must vacate this anchorage.

(2) * * *

(ii) See 33 CFR 110.155(c)(1)(ii).

(3) * * *

(ii) See 33 CFR 110.155(c)(1)(ii).

(4) * * *

(ii) See 33 CFR 110.155(c)(1)(ii).

* * * * *

(d) * * * (1) *Spectator Anchorage 20–A.* That area enclosed by coordinates connecting the following points:

Latitude	*Longitude*
40° 42′ 21″ N	74° 02′ 06″ W
40° 42′ 05″ N	74° 01′ 57″ W
40° 41′ 39″ N	74° 02′ 00″ W
40° 41′ 30″ N	74° 02′ 06″ W
40° 41′ 55″ N	74° 02′ 56″ W

thence along the shoreline to the point of the beginning.

(i) This anchorage is designated for the exclusive use of "Spectator vessels". This designation will commence at 3 a.m. on July 4, 1992. It will terminate at 6 a.m. on July 5, 1992. Upon termination or when directed by Captain of the Port, New York each vessel must vacate this anchorage.

(2) *Spectator Anchorage 20–B.* That area enclosed by coordinates connecting the following points:

Latitude	*Longitude*
40° 41′ 51″ N	74° 02′ 59″ W
40° 41′ 25″ N	74° 02′ 09″ W
40° 41′ 02″ N	74° 02′ 24″ W
40° 41′ 09″ N	74° 02′ 39″ W
40° 41′ 31″ N	74° 03′ 15″ W

thence along the shoreline to the point of the beginning.

(i) This anchorage is designated for the exclusive use of "Spectator vessels". This designation will commence at 3 a.m. on July 4, 1992. It will terminate at 6 a.m. on July 5, 1992. Upon termination or when directed by Captain of the Port, New York each vessel must vacate this anchorage.

(3) *Spectator Anchorage 20–C.* That area enclosed by coordinates connecting the following points:

Latitude	*Longitude*
40° 41′ 26″ N	74° 03′ 18″ W
40° 41′ 00″ N	74° 02′ 26″ W
40° 40′ 09″ N	74° 03′ 00″ W
40° 40′ 45″ N	74° 03′ 51″ W

thence along the shoreline to the point of the beginning.

(i) This anchorage is designated for the exclusive use of "Spectator vessels". This designation will commence at 12 p.m. on July 2, 1992. It will terminate at 11:59 a.m. on July 5, 1992. Upon termination or when directed by Captain of the Port, New York each vessel must vacate the anchorage.

(4) *Spectator Anchorage 20–D.* That area enclosed by coordinates connecting the following points:

Latitude	*Longitude*
40° 40′ 53″ N	74° 04′ 15″ W
40° 40′ 04″ N	74° 03′ 02″ W
40° 39′ 34″ N	74° 03′ 23″ W
40° 39′ 45″ N	74° 03′ 50″ W
40° 39′ 55″ N	74° 04′ 00″ W
40° 40′ 09″ N	74° 03′ 51″ W
40° 40′ 32″ N	74° 04′ 38″ W

thence along the shoreline to the point of the beginning.

(i) This anchorage is designated for the exclusive use of "Spectator vessels". This designation will commence at 12 p.m. on July 2, 1992. It will terminate at 11:59 a.m. on July 5, 1992. Upon termination or when directed by Captain of the Port, New York each vessel must vacate this anchorage.

(5) *Spectator Anchorage 20–E.* That area enclosed by coordinates connecting the following points:

Latitude	*Longitude*
40° 39′ 50″ N	74° 04′ 06″ W
40° 39′ 22″ N	74° 03′ 29″ W
40° 39′ 01″ N	74° 03′ 46″ W
40° 39′ 19″ N	74° 05′ 10″ W

thence along the shoreline to the point of the beginning.

(i) This anchorage is designated for the exclusive use of "Spectator vessels". This designation will commence at 12 p.m. on July 2, 1992. It will terminate at 11:59 a.m. on July 5, 1992. Upon termination or when directed by Captain of the Port, New York each vessel must vacate this anchorage.

* * * * *

(10) * * *

(i) This anchorage is designated for the exclusive use of "Spectator vessels". This designation will commence at 12 p.m. on July 2, 1992. It will terminate at 11:59 a.m. on July 5, 1992. Upon termination or when directed by Captain of the Port, New York each vessel must vacate this anchorage.

(11) * * *

(iii) This anchorage is designated for exclusive use of vessels observing or participating in the OPSAIL '92 festivities and which have been authorized by Captain of the Port, New York. No vessel may anchor within this area without authorization to do so. This anchorage designation will remain in effect from 3 a.m. on July 4, 1992, until 6 a.m. on July 5, 1992. Upon termination or when directed by Captain of the Port, New York each vessel must vacate this anchorage.

(12) * * *

(iii) This anchorage is designated for exclusive use by vessels which have been authorized by Captain of the Port, New York for the purpose of observing or participating in the OPSAIL '92 festivities. No vessel may anchor within this area without authorization to do so. This anchorage will remain so designated from 3 a.m. on July 4, 1992, until 6 a.m. on July 5, 1992. Upon termination or when directed by Captain of the Port, New York each vessel must vacate this anchorage.

(13) * * *

(vi) This anchorage is designated for exclusive use by vessels which have been authorized by Captain of the Port, New York for the purpose of observing or participating in the OPSAIL '92 festivities. No vessel may anchor within this area without authorization to do so. This anchorage will remain so designated from 3 a.m. on July 4, 1992, until 6 a.m. on July 5, 1992. Upon termination or when directed by Captain of the Port, New York each vessel must vacate this anchorage.

(14) * * *

(iv) This anchorage is designated for exclusive use by vessels which have been authorized by Captain of the Port, New York for the purpose of observing or participating in the OPSAIL '92 festivities. No vessel may anchor within this area without authorization to do so. This anchorage will remain so designated from 3 a.m. on July 4, 1992, until 6 a.m. on July 5, 1992. Upon termination or when directed by Captain of the Port, New York each vessel must vacate this anchorage.

(15) * * *

(iii) This anchorage is designated for exclusive use by vessels which have been authorized by Captain of the Port, New York for the purpose of observing or participating in the OPSAIL '92 festivities. No vessel may anchor within this area without authorization to do so. This anchorage will remain so designated from 3 a.m. on July 4, 1992, until 6 a.m. on July 5, 1992. Upon termination or when directed by Captain of the Port, New York each vessel must vacate this anchorage.

(16) Any vessel anchored in or intending to anchor in Federal Anchorage 20–A through 20–E must comply with requirements in paragraphs (d)(16) (iii), (iv), (v), (vi), and (vii) of this section. Any vessel anchored in or intending to anchor in Federal Anchorage 21–A through 21–C, 23–A and 23–B, 24 or 25 must comply with all of the requirements of this paragraph.

* * * * *

(e) * * *

(1) * * *

(iii) This anchorage is effective from 6 a.m. on July 2, 1992, until 2 p.m. on July 4, 1992.

(iv) No vessel other than "OPSAIL '92 Vessels" and their designated assist tugs may anchor and/or approach within 100 yards of any OPSAIL '92 Vessel navigating or anchored in this area.

(f) * * * (1) * * *

Note: Anchorage 49–G in this area is reserved for vessels carrying explosives (see paragraph (m)(3) and (n) of this section) and is excluded from use as a general anchorage.

* * * * *

(4) OPSAIL Vessel Temporary Anchorage. That area enclosed by coordinates connecting the following points:

Latitude	*Longitude*
40° 28' 30" N	74° 01' 42" W
40° 27' 56" N	74° 01' 35" W
40° 27' 54" N	74° 01' 25" W
40° 26' 00" N	74° 00' 58" W
40° 26' 00" N	74° 02' 00" W
40° 26' 29" N	74° 02' 51" W
40° 27' 29" N	74° 02' 10" W
40° 27' 40" N	74° 02' 36" W
40° 28' 07" N	74° 02' 19" W

thence to the point of the beginning.

(i) This anchorage sets aside a portion of Anchorage No. 26, as described in paragraph (f)(1) of this section, for the exclusive use of "OPSAIL '92 Vessels".

(ii) This anchorage is effective from 6 a.m. on July 2, 1992, until 2 p.m. on July 4, 1992.

(iii) No vessels other than "OPSAIL '92 Vessels", their designated assist tugs, and enforcement vessels may anchor, loiter, or approach within 100 yards of any OPSAIL '92 Vessel when it is navigating or at anchor in this area.

* * * * *

(n) * * * (1) Anchorage No. 49–G is reserved for vessels carrying explosives.

* * *

* * * * *

6. Temporary section 110.T01–160 is added to Subpart B to read as follows:

§ 110.T01–160 New York Harbor.

Narrows Temporary Anchorage. That area enclosed by coordinates connecting the following points:

Latitude	*Longitude*
40° 36' 31" N	74° 02' 11" W
40° 36' 28" N	74° 02' 20" W
40° 37' 22" N	74° 02' 48" W
40° 38' 23" N	74° 02' 22" W
40° 38' 21" N	74° 02' 12" W

thence along the shoreline to the point of the beginning. This anchorage is effective from 12 p.m. on July 2, 1992, until 11:59 a.m. on July 5, 1992.

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

8. A new § 165.T01–161 is added to read as follows:

§ 165.T01–161 Safety Zone: Upper Bay, New York and New Jersey.

Note: See chartlets I and VII in appendix A to § 100.35T01–158.

(a) *Location.* The following area is a safety zone: The waters of the Upper Bay in the vicinity of the Battery in Lower Manhattan including: All waters of the Lower East River, south of the Brooklyn Bridge and north of a line drawn between the Brooklyn Battery Tunnel ventilator on Governors Island and Pier 7, Brooklyn; and, all waters of the Lower Hudson River, south of a line drawn between Pier 32, Manhattan and Jersey City along the 40° 43' 30" N line of latitude and north of a line drawn between Castle William on Governors Island and the southern tip of the New Jersey Railroad Terminal in Liberty State Park.

(b) *Effective date.* This zone becomes effective at 8 p.m. on July 4, 1992. It terminates at 3 a.m. on July 5, 1992.

(c) *Regulations.* In accordance with the general regulations in § 165.23, entry into or movement within this zone is prohibited unless authorized by Captain of the Port, New York.

Dated: June 8, 1992.

J.D. Sipes,

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

[FR Doc. 92–14199 Filed 6–19–92; 8:45 am]

BILLING CODE 4910–14–M

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33 CFR Part 117

[CGD8–92–03]

Drawbridge Operation Regulations: Portage Bayou, Tchoutacabouffa River and Wolf River, MS

AGENCY: Coast Guard, DOT.

ACTION: Final Rule.

SUMMARY: At the request of the Harrison County Board of Supervisors, Gulfport, Mississippi, the Coast Guard is changing the regulations governing the operations of three Harrison County owned drawbridges, as follows:

(1) The Portage Bridge on Hampton Road over Portage Bayou, mile 0.2, near Pass Christian.

(2) The Cedar Lake Road Bridge over the Tchoutacabouffa River, mile 8.0, near Cedar Lake.

(3) The Adams Bridge on Hampton Road over the Wolf River, mile 1.3, near Pass Christian.

The changes require that the draw of the Portage Bridge over Portage Bayou open if at least two hours advance notice is given, and that the Cedar Lake Bridge over the Tchoutacabouffa River and the Adams Bridge over the Wolf River open if at least twenty-four hours advance notice is given. Presently, the draws of the bridges are required to open on signal at all times. This change is being made because of infrequent requests to open the draws of the bridges. This action will relieve the bridge owner of the burden of having persons constantly available at the bridges, while still providing for the reasonable needs of navigation.

EFFECTIVE DATE: This regulation becomes effective on July 22, 1992.

FOR FURTHER INFORMATION CONTACT: Mr. John Wachter, Bridge Administration Branch, Eighth Coast Guard District, telephone (504) 589–2965.

SUPPLEMENTARY INFORMATION: On March 25, 1992, the Coast Guard published a proposed rule (57 FR 10322) concerning this amendment. The Commander, Eighth Coast Guard District also published the proposal as a Public Notice dated April 10, 1992. In each notice interested parties were given until May 11, 1992, to submit comments.

Drafting Information

The drafters of this regulation are Mr. John Wachter, project officer, and LT J.A. Wilson, project attorney.

Discussion of Comments

Four letters were received in response to Public Notice No. CGD8–4–92 issued on April 10, 1992. The National Marine Fisheries Service offered no objection to the proposed regulations. McDonough Marine Service, Gulf Coast Pre-Stress, Inc., and Gulf Marine Towing, Inc., each objected to the 6-hour advance notice requirement that was initially proposed for the Portage Bayou bridge. There were no objections to the proposed regulations for the Tchoutacabouffa River bridge or the Wolf River bridge. The Coast Guard contacted the three companies that expressed objection to the proposed Portage Bayou 6-hour advance notice rule. The basis for the objections was that adverse weather conditions such as fog, fronts moving through, high winds low tides, etc., and the shallow channel with no place to moor, would place a hardship on their operations.

Each objector suggested that a two-hour advance notice period would be acceptable and would not hinder their operations. The applicant was notified of the objections and requested that the 6-hour advance notice proposal be amended to a 2-hour advance notice. Since all parties have agreed to a lesser regulated period for the benefit of navigation, the Coast Guard has decided to approve the request as noted in this final rule. Therefore, an amended proposed rule is not necessary. The rest of the rule remains unchanged.

Federalism Implications

This action has been analyzed in accordance with the principles and

criteria contained in Executive Order 12612, and it has been determined that the final rulemaking does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Economic Assessment and Certification

These regulations are considered to be nonmajor under Executive Order 12291 on Federal Regulation and nonsignificant under Department of Transportation regulatory policies and procedures (44 FR 11034: February 26, 1979).

The economic impact has been found to be so minimal that a full regulatory evaluation is unnecessary. The basis for this conclusion is that there will be very little inconvenience to vessel owners using the waterway. In addition, mariners requiring the bridge openings are repeat users of the waterways and giving advance notice of requests for bridge openings should involve little or no additional expense to them. Since the economic impact is expected to be minimal, the Coast Guard certifies that it will not have a significant economic impact on a substantial number of small entities.

Environmental Impact

This rulemaking has been thoroughly reviewed by the Coast Guard and it has been determined to be categorically excluded from further environmental documentation in accordance with section 2.B.2.g.5 of Commandant Instruction M16475.1B. A Categorical Exclusion Determination statement has been prepared and placed in the rulemaking document.

List of Subjects in 33 CFR Part 117

Bridges.

Regulations

In consideration of the foregoing, part 117 of title 33, Code of Federal Regulations, is amended as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 49 CFR 1.46; 33 CFR 1.05–1(g).

§ 117.686 [Redesignated from § 117.685]

2. Section 117.685 (Yazoo River) is redesignated as § 117.686 and a new § 117.685 is added to read as follows:

§ 117.685 Portage Bayou, Tchoutacabouffa and Wolf Rivers

(a) The draw of the Portage Bridge over Portage Bayou, mile 2.0, shall open on signal if at least two hours notice is given.

(b) The draws of the Cedar Lake Road Bridge over the Tchoutacabouffa River, mile 8.0, and the Adams Bridge over the Wolf River, mile 1.3, shall open on signal if at least twenty-four hours notice is given.

Dated: June 1, 1992.

J.M. Loy,

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

[FR Doc. 92–14614 Filed 6–19–92; 8:45 am]

BILLING CODE 4910–14–M

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33 CFR Part 165

[COTP Baltimore, Regulation 92–05–20]

Safety Zone Regulation: Chesapeake Bay, Pasadena, MD

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard Marine Safety Office Baltimore is establishing a safety zone for Downs Memorial Park fireworks display, Pasadena, Maryland. The fireworks will be launched from shore outward toward the Chesapeake Bay. The safety zone is necessary to control spectator craft and to provide for the safety of life and property on navigable waters during the event. Entry into this zone is prohibited unless authorized by the Captain of the Port.

EFFECTIVE DATE: This regulation is effective from 8 p.m. to 11 p.m., July 4, 1992.

FOR FURTHER INFORMATION CONTACT: LT Cynthia L. Stowe, U.S.C.G. Marine Safety Office Baltimore, U.S. Custom House, 40 South Gay Street, Baltimore, Maryland 21202–4022, (410) 962–5105.

SUPPLEMENTARY INFORMATION: In accordance with 5 U.S.C. 553, a notice of proposed rulemaking has not been published for this regulation and good cause exists for making it effective in less than 30 days from the date of publication. Adherence to normal rulemaking procedures would not have been possible.

Specifically, the sponsor's application to hold the event was not received until May 7, 1992, leaving insufficient time to publish a notice of proposed rulemaking in advance of the event.

Drafting Information

The drafters of this regulation are LT Cynthia L. Stowe, project officer for the Captain of the Port, Baltimore, Maryland and LT Monica L. Lombardi, project attorney Fifth Coast Guard District Legal Staff.

Background and Purpose

On May 7, 1992 the Park Superintendent, Downs Memorial Park, Pasadena, Maryland filed an application to hold a fireworks display, to take place on July 4, 1992. As part of their application Downs Park requested that the Coast Guard provide control of spectator and commercial traffic during the fireworks display.

Discussion of Regulation

The fireworks will be launched from the shores of Downs Memorial Park, Pasadena, Maryland and shot over the water adjacent the park. The safety zone will consist of a rectangular area of the Chesapeake Bay, approximately 1,200 feet from the shore, marked by four to six temporary buoys. Since this area is not near any shipping channels, commercial traffic will not be affected.

This emergency rule is not considered major under Executive Order 12291 and not significant under Department of Transportation regulatory policies and procedures (44 FR 11034; February 26, 1979).

The Coast Guard also considered the impact of this regulation on small entities and concluded that such impact is expected to be minimal. Therefore the Coast Guard certifies under 5 U.S.C. 605(b), that this regulation will not have a significant economic impact on a substantial number of small entities.

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

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Vessels, Waterways.

Regulation

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

PART 165—[AMENDED]

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

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

2. A temporary § 165.T520 is added to read as follows:

§ 165.T520 Safety Zone: Chesapeake Bay, Pasadena, Maryland.

(a) *Location.* The following area is a safety zone: The waters of the Chesapeake Bay, 1,200 feet offshore of Downs Park, Pasadena, Maryland, as marked by temporary buoys.

(b) *Definitions.* The designated representative of the Captain of the Port is any Coast Guard commissioned, warrant or petty officer who has been authorized by the Captain of the Port, Baltimore, Maryland to act on his behalf.

(1) The Captain of the Port and the Duty Officer at the Marine Safety Office, Baltimore, Maryland can be contacted at telephone number (410) 962–5105.

(2) The Coast Guard Patrol Commander and each Coast Guard vessel enforcing the safety zone can be contacted on VHF–FM channels 13 and 16.

(c) *Local regulation.* Except for persons or vessels authorized by the Coast Guard Patrol Commander, no person or vessel may enter or remain in the regulated area.

(1) The operator of any vessel in the immediate vicinity of this safety zone shall:

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

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

(2) Any spectator vessel may anchor outside of the regulated area specified in paragraph (a) of this section, but may not block a navigable channel.

(d) *Effective date.* The regulation in this section is effective from 8 p.m. to 11 p.m., July 4, 1992, unless sooner terminated by the Captain of the Port, Baltimore, Maryland.

Dated: June 12, 1992.

R.L. Edmiston,

Captain, U.S. Coast Guard, Captain of the Port, Baltimore, Maryland.

[FR Doc. 92–14192 Filed 6–19–92; 8:45 am]

BILLING CODE 4910–14–M

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33 CFR Part 165

[COTP Baltimore, Regulation 92–05–18]

Safety Zone Regulation: Severn River, Annapolis, MD

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard Marine Safety Office Baltimore is establishing a safety zone for the City of Annapolis Fireworks display. The fireworks will be launched from a barge anchored approximately 200 yards east of Farragut Field U.S. Naval Academy, Severn River, Annapolis, Maryland. The safety zone is necessary to control spectator craft and to provide for the safety of life and property on navigable waters during the event. Entry into this zone is prohibited unless authorized by the Captain of the Port.

EFFECTIVE DATES: This regulation is effective from 8 p.m. to 10:30 p.m., July 4, 1992, with a rain date of July 5, 1992.

FOR FURTHER INFORMATION CONTACT: LT Cynthia L. Stowe, U.S.C.G. Marine Safety Office Baltimore, U.S. Custom House, 40 South Gay Street, Baltimore, Maryland 21202–4022, (410) 962–5105.

SUPPLEMENTARY INFORMATION: In accordance with 5 U.S.C. 553, A notice of proposed rulemaking has not been published for this regulation and good cause exists for making it effective in less than 30 days from the date of publication. Adherence to normal rulemaking procedures would not have been possible.

Specifically, the sponsor's application to hold the event was not received until April 27, 1992, leaving insufficient time to publish a notice of proposed rulemaking in advance of the event.

Drafting Information

The drafters of this regulation are LT Cynthia L. Stowe, project officer for the Captain of the Port, Baltimore, Maryland and LT Monica L. Lombardi project attorney Fifth Coast Guard district legal staff.

Background and Purpose

On April 27, 1992 the City of Annapolis filed application to hold a fireworks display, to take place on July 4, 1992. As part of their application, the City of Annapolis requested that the Coast Guard provide control of spectator and commercial traffic during the fireworks display.

Discussion of Regulation

The fireworks will be launched from a barge anchored approximately 200 yards east of Farragut Field, U.S. Naval Academy, Severn River, Annapolis, Maryland. This Safety Zone will consist of a circle, with a radius of 200 yards, around the barge located at latitude 38–58–30 North, longitude 076–28–30 West.

This emergency rule is not considered major under Executive Order 12291 and not significant under Department of Transportation regulatory policies and procedures (44 FR 11034; February 26, 1979).

The Coast Guard also considered the impact of this regulation on small entities and concluded that such impact is expected to be minimal. Therefore the Coast Guard certifies under 5 U.S.C. 605(b), that this regulation will not have a significant economic impact on a substantial number of small entities.

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

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Vessels, Waterways.

Regulation

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

PART 165—[AMENDED]

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

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

2. A temporary § 165.T518 is added to read as follows:

§ 165.T518 Safety Zone: Severn River, Annapolis, Maryland.

(a) *Location.* The following area is a safety zone: The waters of the Severn River, bounded by the arc of a circle with a radius of 200 yards and with its center located at latitude 38–58–30 North, longitude 076–28–30 West.

(b) *Definitions.* The designated representative of the Captain of the Port is any Coast Guard Commissioned, warrant or petty officer who has been authorized by the Captain of the Port, Baltimore, Maryland to act on his behalf. The Coast Guard Patrol Commander and each Coast Guard vessel enforcing the safety zone can be contacted on VHF–FM channels 13 and 16.

(c) *Local regulations.* Except for persons or vessels authorized by the Coast Guard Patrol Commander, no person or vessel may enter or remain in the regulated area.

(1) The operator of any vessel in the immediate vicinity of this safety zone shall:

(i) Stop the vessel immediately upon being directed to do so by any

commissioned, warrant, or petty officer on board a vessel displaying a Coast Guard Ensign.

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

(2) Any spectator vessel may anchor outside of the regulated area specified in paragraph (a) of this section, but may not block a navigable channel.

(d) *Effective date.* The regulation in this section is effective from 8 p.m. to 10:30 p.m., July 4, 1992, unless sooner terminated by the Captain of the Port, Baltimore, Maryland. If the event is postponed from July 4, 1992, due to weather, the regulation in this section will be effective from 8 p.m. to 10:30 p.m., July 5, 1992, unless sooner terminated by the Captain of the Port, Baltimore, Maryland.

Dated: June 12, 1992.

R. L. Edmiston,

Captain, U.S. Coast Guard, Captain of the Port, Baltimore, Maryland.

[FR Doc. 92-14193 Filed 6-19-92; 8:45 am]

BILLING CODE 4910-14-M

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33 CFR Part 165

[COTP TAMPA Regulation 92-47]

Safety Zone Regulations; Headwaters of Crystal River in Kings Bay, Florida

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a safety zone for the headwaters of the Crystal River in Kings Bay, Florida. The zone is needed to protect boaters and their vessels from safety hazards associated with anticipated heavy boating traffic in this area during the 4th of July holiday weekend. Vessels in the area are to proceed at "idle speed" during the holiday weekend.

EFFECTIVE DATES: This regulation becomes effective on Thursday, July 2, 1992 at 6 p.m. EDT. It terminates on Sunday, July 5, 1992 at Midnight.

FOR FURTHER INFORMATION CONTACT: Lieutenant Junior Grade L.J. Pearson, Coast Guard Marine Safety Office, Tampa, FL at (813) 228-2189.

SUPPLEMENTARY INFORMATION: In accordance with 5 U.S.C. 553, a notice of proposed rulemaking (NPRM) was not published for this regulation and good cause exists for making it effective in less than 30 days after **Federal Register** publication. Publishing an NPRM and delaying its effective date would be contrary to the public interest since immediate action is required to respond to potential hazards to the vessels involved.

Drafting Information

The drafters of this regulation are LTJG L.J. Pearson, project officer for the Captain of the Port, and LT J.M. Losego, project attorney, Seventh Coast Guard District Legal Office.

Discussion of Regulation

This regulation is required, because the 4th of July holiday weekend traditionally results in an increased amount of boating traffic in the headwaters of the Crystal River in Kings Bay, Florida. In order to decrease the hazard to boaters and their vessels, all boats transmitting the zone must proceed at "idle speed." The entrance areas to the zone shall be marked with buoys indicating, "No wake—Idle Speed."

This regulation is issued pursuant to 33 U.S.C. 1225 and 1231 as set out in the authority citation for all of part 165.

Federalism

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

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Security measures, Vessels, Waterways.

Regulations

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

PART 165—[AMENDED]

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

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

2. A new § 165.T0747 is added to read as follows:

§ 165.T0747 Safety Zone: Headwaters of Crystal River in Kings Bay, Florida.

(a) Location. The following area is a safety zone: The waters of Kings Bay and the connecting tributaries south and west of the points of land at Crystal Shores on the east and Magnolia Shores on the west wherein the Crystal River meets Kings Bay. Specifically, the northern boundary of the safety zone is formed by a line drawn from position 28-53-63 N, 82-36-29 W, to position 28-53-67 N, 82-35-92 W. The southern boundary is formed by a line drawn from position 28-53-13 N, 82-35-97 W, to position 28-53-10 N, 82-35-71 W. The eastern boundary is formed by a line drawn from position 28-53-67 N, 82-35-92 W, to position 28-53-10 N, 82-35-71 W. Finally, the western boundary is formed by a line drawn from position 28-53-63 N, 82-36-29 W, to position 28-53-13 N, 82-35-97 W.

(b) Effective Dates. This regulation becomes effective on Thursday, July 2, 1992 at 6 p.m. EDT. It terminates on Sunday, July 5, 1992 at Midnight.

(c) Regulations. In accordance with the general regulations of § 165.23 of this part, all vessels transiting in this zone must proceed at "idle speed."

Dated: May 18, 1992.

M.J. Schiro,

Captain, U.S. Coast Guard, Captain of the Port, Tampa, Florida.

[FR Doc. 92-14611 Filed 6-19-92; 8:45 am]

BILLING CODE 4910-14-M

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33 CFR Part 165

[CGD1 92-055]

Safety Zone; Gloucester Inner Harbor, Gloucester, MA

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing an emergency safety zone in the waters of Gloucester Inner Harbor, including Smith Cove, east of a line drawn from the U.S. Coast Guard Station Gloucester and the northeast point of Rocky Neck, East Gloucester. Vessel movements within this safety zone are permitted under the criteria set forth in this regulation. This action is necessary to protect the maritime community from the possible dangers and hazards to navigation associated with the underwater blasting being conducted in conjunction with ongoing dredging and reconstruction of the Gloucester State Pier. This period of underwater blasting will be from June 1, 1992 to August 14, 1992.

EFFECTIVE DATES: This regulation becomes effective at 12:01 a.m. June 10, 1992 and terminates at 12:01 a.m. August 15, 1992.

ADDRESSES: The docket for this rulemaking is available for inspection or copying at room 233, U.S. Coast Guard Marine Safety Office, 455 Commercial Street, Boston, MA 02109-1045, between 7:30 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Lieutenant (junior grade) Edgars Auzenbergs, USCG Marine Safety Office Boston, at (617) 223-3000.

SUPPLEMENTARY INFORMATION:

Drafting Information

The principal persons involved in drafting this document are Lieutenant (junior grade) Edgars Auzenbergs, project officer for the Captain of the Port Boston, and Lieutenant Commander John Astley, project attorney, First Coast Guard District Legal Office.

Regulatory History

In accordance with 5 U.S.C. 553, a notice of proposed rulemaking was not published for this regulation and good cause exists for making it effective in less than 30 days after Federal Register publication. The Middlesex Corporation, contractors for the Gloucester State Pier reconstruction project, informed the Coast Guard less than a month ago of their intent to conduct underwater blasting in Gloucester Harbor. The exact specifications of the blasting were not known to the Coast Guard until the Captain of the Port Boston received and approved the contractors' blast plan and issued a permit to conduct explosive loads at the Gloucester State Pier on May 28, 1992. Publishing an NPRM and delaying its effective date would be contrary to the public interest since immediate action is needed to prevent injury to the persons and vessels involved. Any further delay to this project would be detrimental to the major reconstruction and expansion of the Gloucester State Pier, which have been underway for two months.

Background and Purpose

The U.S. Coast Guard is establishing this emergency safety zone to enhance vessel safety during that phase of the Gloucester State Pier reconstruction project involving underwater blasting. The Gloucester State Pier project is part of a multi-year plan entailing pier expansion and modernization in order to facilitate additional fishing vessel berths and commercial buildings. The contractors anticipate completing the development of the pier in mid 1993. The Coast Guard views the underwater blasting portion of the construction as a concern for mariners. The safety zone ensures that communication is established between contractors and all pertinent parties, including operators of vessels transiting the waters within the safety zone. With proper communication among all parties, the contractor is assured of conducting underwater blasting operations in a safe manner with minimal impact on vessel traffic.

Description of the Blasting

The operation is being conducted from 9 a.m. until 4 p.m. Monday through Saturday and the safety zone will remain in effect until August 15, 1992. No blasting will take place when there is restricted visibility (the contractor must have ½ mile visibility beyond the safety zone). Before each blast, personnel on board the barge BULLDOG will drill multiple holes and load the holes with explosives. After retreating to a safe distance, the contractors will remotely detonate the explosives in the holes. Operations will be conducted primarily on the south side of the State Pier, with the spud barge BULLDOG performing the drilling and the barge WEEKS 264 (130 feet x 45 feet) assisting in the dredging.

Obstruction of the Channel

Obstruction of the channel is minimal, since BULLDOG and WEEKS 264 are positioned just off the southern corner of the Gloucester State Pier and operate normally well outside the limits of the North or South Channels. This safety zone is necessary to protect vessel traffic operating in Gloucester Harbor from the hazards associated with the underwater blasting operations. Notice of this safety zone will be published in the Local Notice to Mariners and Safety Marine Information Broadcasts. Entry into this safety zone will be prohibited during periods of underwater blasting, unless authorized by the Captain of the Port Boston.

Notification of Blasting

One hour, forty-five minutes, thirty minutes, and fifteen minutes prior to blasting, the contractors will broadcast on channels 9 and 16 VHF-FM their intention to conduct blasting operations. Approximately fifteen minutes before a blast round is to be fired, the blaster will sound four clearly audible prolonged (4-6 seconds) horn/whistle signals to indicate that the blast area is being secured. When the area is determined to be secure by the contractor, the blaster will signal with four clear audible short (approximately one second duration) horn/whistle signals to indicate that the blast is going to occur within one minute. The blast round will then be fired unless there is a last minute breakdown in the security of the blast area. If a vessel not involved with the blasting operations is within the safety zone at this point, the contractor will not blast. Immediately following the blast, the blaster will inspect the area and determine that it is clear to resume operations. At this point an all clear (one 4-6 second horn/whistle signal) will be given.

Regulatory Evaluation

This proposal is not major under Executive Order 12291 and not significant under Department of Transportation Regulatory Policies and Procedures (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this proposal to be so minimal that a Regulatory Evaluation is unnecessary. Costs to the shipping and fishing industry from these regulations, if any, will be minor and have no significant adverse financial effect on vessel operators. Vessel traffic may experience slight delays in departures or arrivals while waiting for an underwater blast to occur.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard must consider whether this proposal will have a significant economic impact on a substantial number of small entities. "Small entities" include independently owned and operated small businesses that are dominant in their field and that otherwise qualify as "small business concerns" under section 3 of the Small Business Act (15 U.S.C. 632).

Since this action may cause only slight delays in transits by vessel traffic, no significant adverse economic impact should result from this rulemaking. Therefore, the Coast Guard certifies under section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) that this temporary final rule will not have a significant economic impact on a substantial number of entities.

Collection of Information

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

Federalism

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

Environment

The Coast Guard considered the environmental impact of this proposal and concluded under section 2.B.2.C of Commandant Instruction M16475.1B, this rulemaking is categorically excluded from further environmental documentation. In fact, implementation

of this rulemaking should help to reduce the risk of collision or other marine accidents. A Categorical Exclusion Determination is available in the docket for inspection or copying where indicated under "ADDRESSES."

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Latest research, reporting, and record keeping requirements, Security measures, Waterways.

For the reasons set out in the preamble, the Coast Guard is amending 33 CFR part 165 as follows:

PART 165—[AMENDED]

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

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

2. A new § 165.T0155 is added to read as follows:

§ 165.T0155 Safety Zone: Gloucester Inner Harbor, Gloucester, MA

(a) *Location.* The following area is a safety zone: All waters of Gloucester Inner Harbor, including Smith Cove, east of a line drawn from the U.S. Coast Guard Station, position 42°36'36" N, 070°39'37". W, to the northeast point of Rocky Neck, position 42°36'05" N, 070°39'03" W, when underwater blasting is being conducted.

(b) *Effective date.* This regulation becomes effective at 12:01 a.m., June 10, 1992. It terminates at 12:01 a.m., August 15, 1992, unless terminated sooner by the Captain of the Port.

(c) *Regulations.* (1) Except with permission of the Captain of the Port, all vessels not involved with the operation must:

(i) Remain outside the safety zone (i.e., not operate or anchor within the safety zone) when underwater blasting is about to occur, signalled by four short horn/whistle signals sounded by the drill barge BULLDOG approximately one minute prior to the scheduled blast.

(ii) Maintain at all times a safe distance from the vicinity of the operation.

(iii) Communicate with the Middlesex Corporation on Channels 9 or 16 VHF–FM to arrange for safe passage.

(2) Except with the permission of the Captain of the Port, the Middlesex Corporation must:

(i) Not blast if a vessel not involved with the blasting operation is within the safety zone. Immediately following the blast, inspect and survey the blast area to determine whether it is clear to resume operations. Give all clear signal, one prolonged (4–6 seconds) horn/whistle signal after area is determined to be clear to resume normal operations.

(ii) Initiate appropriate broadcast notices and warning signals to local mariners prior to and after conducting blasting operations. One hour, forty-five minutes, and thirty minutes prior to blasting, broadcast on channels 9 and 16 VHF–FM the intention to conduct blasting operations. Approximately fifteen minutes before a blast round is to be detonated, give a signal of four clearly audible prolonged (4–6 seconds) horn/whistle signals to indicate that the blast area is being secured. Signal with four clear audible short (approximately one second) horn/whistle signals to indicate that the blast is going to be in one minute. Give signal of one clearly audible prolonged (4–6 seconds) horn/whistle signal after area is determined to be all clear to resume normal operations.

(3) The Captain of the Port may, upon request, authorize a deviation from any rule in this section if he determines that the proposed operations can be done safely.

Dated: June 10, 1992.

W.H. Boland, Jr.,

Captain, U.S. Coast Guard, Captain of the Port, Boston, Massachusetts.

[FR Doc. 92–14617 Filed 6–19–92; 8:45 am]

BILLING CODE 4910–14–M

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33 CFR Part 165

[CGD1 92–065]

Safety Zone Regulations: Kill Van Kull, New York and New Jersey

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a safety zone in all waters in the area of Constable Hook in the Kill Van Kull of New York and New Jersey. This zone is an enhancement of the Regulated Navigation Area (RNA) already in effect in these waters, and will restrict traffic in the described area and prohibit traffic from transiting the work area in a portion of the channel at Constable Hook Reach. In the southern portion of the channel is a work area where concentrated drilling and blasting will be conducted and no vessel is permitted to transit that section. In the remaining restricted area, vessel passage is permitted under the criteria set forth in these regulations. This action is necessary to protect the maritime community from the possible dangers and hazards to navigation associated with the extensive blasting and dredging operations which are being conducted in the work area of the channel.

EFFECTIVE DATES: These regulations becomes effective at 8 a.m., June 8, 1992. It terminates at 12 a.m., August 1, 1992, unless terminated sooner by Captain of the Port NY (COTP NY).

FOR FURTHER INFORMATION CONTACT: LTJG J. Peschel of Captain of the Port, New York (212) 668–7934.

SUPPLEMENTARY INFORMATION:

Drafting Information

The drafters of this notice are LTJG J.E. Peschel, Project Officer, Captain of the Port, New York and LCDR J. Astley, Project Attorney, First Coast Guard District, Legal Office.

Regulatory History

Pursuant to 5 U.S.C. 553, a notice of proposed rulemaking was not published for this regulation and good cause exists for making it effective in less than 30 days after **Federal Register** publication. Publishing an NPRM and delaying its effective date would be contrary to the public interest since immediate action is needed to respond to any potential hazards. The request for this zone was not received until June 4, 1992. Therefore, there was not sufficient time to publish proposed rules in advance of the event or to provide for a delayed effective date.

On April 1, 1992 a final rule was published as § 165.165 of this title, which imposed a regulated navigation area (RNA) over the entire Kill Van Kull for the duration of a three year deepening project which is occurring throughout the Kill. To safeguard users of this waterway from hazards involved with this ongoing project, this safety zone establishes additional temporary restrictions within the boundaries of the RNA. These additional requirements specify mandatory check-in points for vessels nearing the work area, and require the employment of tugs when conducting certain operations during this most difficult phase of the dredging project.

Background and Purpose

In August 1991, the Army Corps of Engineers (A.C.O.E.) and the Port Authorities of New York and New Jersey commenced an extensive channel deepening project in the Kill Van Kull and the Constable Hook area. This project restricts the available channel width for the duration of the project, reducing it by one half in the area of the worksite, from approximately 800 feet to 400 feet, with shoal water of only 25 feet immediately outside this channel.

In order to minimize the burden on the maritime community during this important and necessary dredging operation, the project is divided into phases. During each phase, blasting and dredging operations occur in only a small portion of the navigable channel. Limiting the size of the work area allows vessels to continue navigating the waterway with few, if any, restrictions, while providing the necessary level of safety and allowing the A.C.O.E. to complete the project without undue delay.

In April, the work area shifted to the southern portion of the channel to continue work westward from Constable Hook Reach toward Shooters Island. Each time the work area moved, the Coast Guard established a safety zone around the work site. These safety zones were narrowly tailored to provide an adequate level of safety to vessels transiting the area while minimizing the restrictions imposed on vessel operations. In addition, throughout the blasting and dredging project the Coast Guard has consulted with the port community and kept them apprised of developments.

On June 4, 1992, the U.S. Army Corps of Engineers (A.C.O.E.) notified the Coast Guard that they were prepared on June 8th to begin operations in the area of Constable Hook Reach. Under normal conditions the area available for maneuvering into the Kill Van Kull, between Constable Hook Reach and New York's Upper Bay, is difficult to navigate. As a result of the dredging project, the area available for maneuvering has been significantly reduced, and makes the angle of turn greater for vessels proceeding from the Upper Bay to Constable Hook Reach, thus making the area more difficult to navigate. The narrowest navigational channel will likewise be reduced to a mere 375 feet, with shoal water of only 25 feet immediately outside the channel. Traversing these confined waters heightens the risk of a collision or grounding and a resulting pollution incident in this area. Therefore, it is imperative that the Coast Guard establish a new safety zone with temporary, additional restrictions on vessels transiting the new work site.

If the Coast guard does not establish this new safety zone with its additional restrictions, the agency will be forced to curtail the planned A.C.O.E. dredging project. Such action would impose long term economic and logistical impacts on the port. The other option would involve issuing individual COTP orders to vessels to preclude them from navigating in the remaining navigable portion of the Kill Van Kull and redirecting traffic through the Arthur Kill. This solution would add delays and confusion, impose a significant financial burden to the maritime community, and further congest the narrow channel of the Arthur Kill. The new safety zone is temporary in nature, and will be in effect less than six months. The additional restrictions apply only to vessels with drafts of 25 feet or greater. In combination with the preexisting RNA, it provides the minimum level of safety needed to protect users of the waterway from the dangers and hazards associated with the dredging and blasting operation while navigating in a heavily trafficked area.

In light of the unique hazards created by the location and dimensions of the new work area, the safety zone will consist of two areas. The first is the "Work Area" where blasting and dredging will occur and through which no traffic may transit unless authorized by COTP NY. The second is the area surrounding the "Work Area", including the approaches and the waters typically used for making the turn from the Upper Bay to the Kill Van Kull (or vice versa). This additional area allows vessels to set up for the turn and avoid congestion when passing around the "Work Area". Based on a recent CAORF port study and in light of several casualties which have occurred in this area, the Captain of the Port, New York has determined that certain vessels must employ assist tugs in order to improve their ability to safely make the turn around the worksite. The minimum number of assist tugs required will depend on the size and length of the vessel, for those vessels with a draft of 25 feet or greater. Vessel operators who do not wish to employ assist tugs have the additional option of choosing the south route by taking Arthur Kill to (or from) Newark Bay thus steering clear of the work area and avoiding the assist tug requirement.

This safety zone is established to reduce the risk of accidental groundings, collisions or pollution when transiting this congested area. The potential for an accident in this area was demonstrated recently with the grounding of the M/V American Eagle, the oil pollution from the grounding of the tug and barge M 35, and the blocked channel resulting from the M/V Wladyslaw Sikorski's grounding. Incidents of this type, which occurred when the area was not restricted, demonstrate the need for additional restrictions around the "Work Area" to ensure safe navigation of vessels transiting through the safety zone.

Regulatory Evaluation

These regulations are not major under Executive Order 12291 and not significant under Department of Transportation Regulatory Policies and Procedures (44 FR 11040; February 26, 1979). In light of the area's limited size, temporary timeframe, and advance warning to the maritime community, the Coast Guard expects the economic impact of this rulemaking to be so minimal that a Regulatory Evaluation is unnecessary.

Small Entities

Because it expects the impact of these regulations to be minimal, the Coast Guard certifies under section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) that this final rule will not have a significant economic impact on a substantial number of small entities.

Collection of Information

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

Federalism

The Coast Guard has analyzed this action in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that these regulations do not raise sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environment

The Coast Guard has considered the environmental impact of these regulations and concluded that under section 2.B.2.c. of Commandant Instruction M16475.1B, it is an action under the Coast Guard's statutory authority to protect public safety, and thus is categorically excluded from further environmental documentation.

List of Subjects in 33 CFR part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Vessels, Waterways.

Regulations:

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

PART 165—[AMENDED]

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

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

2. A new 165.T01065 is added to read as follows:

§ 165.T01065 Safety Zone: Kill Van Kull, Constable Hook—New York and New Jersey.

(a) *Location.* (1) The following areas has been declared a Safety Zone: All waters of the Kill Van Kull Channel in the vicinity of Constable Hook; east of a line drawn shore to shore along the 074°05′ 16″W line of longitude, west of a line drawn along the 074°04′ 17″W line of longitude, and south of a line drawn along the 40°39 ′27″N line of latitude.

(2) Within this safety zone exists a "Work Area" where concentrated drilling and blasting is being conducted. The "Work Area" includes all waters bounded by the following points:

Latitude	*Longitude*
40°38′55.0″N	074°05′07.0″W
40°39′04.0″N	074°05′07.0″W
40°39′04.0″N	074°04′53.0″W
40°38′51.0″N	074°04′53.0″W

thence to the point of the beginning.

KVK Channel Light Buoy 5 (LLNR 34510) has been initially relocated in approximate position 40°39′04″N 074°05′09″W to mark this work area. Additionally, KVK Channel Light Buoy 1 (no LLNR) has been relocated in approximate position 40°38′59″N 074°04′17″W, and KVK Channel Light Buoy 7 (LLNR 34515) is located in approximate position 40°38′56″N 074°05′16″W to indicate the eastern and western boundaries, respectively, of larger safety zone surrounding the work area. However, these positions are approximate due to potential repositioning of the buoys. Mariners are advised to consult the Local Notice to Mariners for exact locations of the buoys.

(b) *Effective date.* These regulations become effective at 8 a.m., June 8, 1992. They terminate at 12 a.m., August 1, 1992, unless terminated sooner by COTP NY.

(c) *Regulations.* (1) "Work Area": In accordance with the general regulations in § 165.23 of this part, entry into or movement within the "Work Area" of the safety zone is prohibited unless authorized by the Captain of the Port.

(2) For all other waters of the safety zone described in paragraph a)(1) of this section:

(i) Each vessel transiting this zone is required to do so at minimum wake speed.

(ii) No vessel shall enter this zone when they are advised by the drilling barge or Vessel Traffic Service New York (VTSNY) that a misfire or hangfire has occurred. Vessels already underway in the zone shall proceed to clear the area immediately.

(iii) Vessels, 300 gross tons or greater and tugs with tows, are prohibited from meeting or overtaking in the Constable Hook Reach when north of the "Work Area".

(iv) Vessels, 300 gross tons or greater and tugs with tows, transiting with the prevailing current are regarded as the stand-on vessel.

(v) Prior to entering this safety zone, the master, pilot, or operator of each vessel, 300 gross tons or greater and tugs with tows, shall notify VTSNY regarding the employment of assist tugs and intentions while transiting the safety zone.

(vi) Vessels with drafts of 25 feet or greater, and an overall length between 350 and 700 must have at least one tug, and vessels of greater than 700 feet in overall length at least two tugs, assisting while transiting from the Kill Van Kull to the Upper Bay (or vice versa). The length refers to length over all (LOA). For tugs with tows length includes tow length.

(vii) For vessels towing astern, hawser or wire length must not exceed 100 feet for that tow. This length is measured from the towing bit on the towing vessel to the point where the hawser or wire connects with the vessel being towed.

Dated: June 6, 1992.

R. M. Larrabee

Captain, U.S. Coast Guard Captain of the Port, New York.

[FR Doc. 92–14615 Filed 6–19–92; 8:45 am]

BILLING CODE 4910–14–M

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33 CFR Part 165

[CGD1 92–054]

Safety Zone; Lower Hudson River, New York, New Jersey

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard plans to establish a temporary safety zone for a fireworks display within 300 yards of a point located at 40°43′55″N and 74°01′04″W in the vicinity of Manhattan's pier 42 in the Lower Hudson River. The two fireworks displays will take place on Sunday, June 28, 1992 at 9:30 p.m. and 10:30 p.m. Temporary closure of the waters surrounding launching barge is needed to protect the boating public from the safety hazards associated with a pyrotechnic fireworks display in these waters.

EFFECTIVE DATES: This zone becomes effective on June 28, 1992 at 9 p.m. It terminates on June 28, 1992 at 11 p.m.

FOR FURTHER INFORMATION CONTACT: Lieutenant (junior grade) J.E. Peschel, Waterways Management Officer, Coast Guard Group New York (212) 668–7933.

SUPPLEMENTARY INFORMATION:

Drafting Information

The drafters of this notice are LTJG J.E. Peschel, Captain of the Port, New York and LCDR J. Astley, Project Attorney, First Coast Guard District, Legal Office.

Regulatory History

Pursuant to 5 U.S.C. 553, a notice of proposed rulemaking was not published for this regulation and good cause exists for making it effective in less than 30 days after **Federal Register** publication. Publishing an NPRM and delaying its effective date would be contrary to public interest since immediate action is needed to respond to any potential hazards. Due to the date that this application was received, there was not sufficient time to publish proposed rules in advance of the event or to provide for a delayed effective date.

Background and Purpose

The circumstances requiring this regulation result from the desire to protect the maritime public from possible dangers and hazards associated with a pyrotechnic fireworks display in the waters of the Lower Hudson River. The safety zone will surround a barge based shoot directed over the water at Pier 42 Manhattan, New York. The majority of the zone lies along the eastern bank of the Hudson River, with the main channel still available to regular marine traffic. This 2 hour zone allows time for Coast Guard personnel to clear vessels from the area both before and during the display, and ensure all pyrotechnics have been extinguished prior to reopening the area to maritime traffic. No vessel will be permitted to enter or move within the safety zone unless permitted to do so by Captain of the Port, New York.

Regulatory Evaluation

These regulations are not major under Executive Order 12291 and not significant under Department of Transportation Regulatory Policies and Procedures (44 FR 11040; February 26, 1979). Due to the limited duration of the two displays within this two hour window, the extensive advisories made to the affected maritime community, the location of the zone, and the fact that the event is taking place on a Sunday night, which is normally a very light volume day for commercial marine traffic, the impact of this regulation is

expected to be minimal. The Coast Guard expects the economic impact of this regulation to be so minimal that a Regulatory Evaluation is unnecessary.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.), the Coast Guard must consider whether this regulation will have a significant economic impact on a substantial number of small entities. "Small entities" include independently owned and operated small businesses that are not dominant in their field and that otherwise qualify as "small business concerns" under section 3 of the Small Business Act (15 U.S.C. 632).

For reasons set forth in the above Regulatory Evaluation, the Coast Guard certifies under 5 U.S.C. 605(b) that this regulation will not have a significant economic impact on a substantial number of small entities.

Collection of Information

This regulation contains no collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501).

Federalism

The Coast Guard has analyzed this action in accordance with the principles and criteria contained in Executive Order 12612 and has determined that this regulation does not raise sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environment

The Coast Guard considered the environmental impact of this regulation and concluded that under section 2.B.2.c. of Commandant Instruction M16475.1B, it is an action under the Coast Guard's statutory authority to protect public safety, and thus this regulation is categorically excluded from further environmental documentation.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Vessels, Waterways.

For reasons set out in the preamble, the Coast Guard proposes to amend 33 CFR part 165 as follows:

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

PART 165—[AMENDED]

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

2. A temporary section, 165.T0154 is added to read as follows:

§ 165.T0154 Heritage of Pride Fireworks.

(a) *Location.* The safety zone will include all waters within a 300 yard radius of a point of 40°43'55"N latitude 074°01'04"W longitude in the vicinity of Manhatten's pier 42 in the Lower Hudson River, New York and New Jersey.

(b) *Effective period.* This regulation will be effective from 9 p.m. through 11 p.m. on June 28, 1992.

(c) *Regulations.* (1) No person or vessel may enter, transit, or remain in the safety zone during the effective period of regulation unless participating in the event as authorized by the U.S. Coast Guard Captain of the Port (COTP), New York. The COTP will attempt to minimize any delays for commercial vessels transiting the area and will monitor channel 16 VHF-FM.

(2) All persons and vessels shall comply with the instructions of the COTP NY or the designated on scene personnel. U.S. Coast Guard patrol personnel include commissioned, warrant, and petty officers of the Coast Guard. Upon hearing five or more blasts from a U.S. Coast Guard vessel, the operator of a vessel shall stop immediately and proceed as directed.

Dated: June 10, 1992.

R.M. Larrabee,

Captain, U.S. Coast Guard, Captain of the Port, New York.

[FR Doc. 92-14613 Filed 6-19-92; 8:45 am]

BILLING CODE 4910-14-M

DEPARTMENT OF EDUCATION

34 CFR Parts 97, 222, 298, 301, 303, 304, 305, 307, 309, 315, 316, 318, 319, 320, 324, 325, 326, 327, 328, 330, 331, 332, 333, 338, 347, 350, 356, 361, 445, 600, 642, 643, 644, 645, 646, 652, 668, 682, 690, 722, 770, and 791

Announcement of Effective Dates

AGENCY: Department of Education.

ACTION: Notice of effective dates.

SUMMARY: Section 431(d) of the General Education Provisions Act requires that most Department of Education regulatory documents be published in the **Federal Register** for forty-five (45) calendar days, or longer if Congress takes certain adjournments, before they take effect. Since future congressional adjournments cannot be predicted with certainty when a document is published, the Department cannot announce a specific effective date at the time of publication. This notice announces the effective dates for certain regulatory documents subject to the delayed effective date requirement of section 431(d).

DATES: For effective dates, see **"SUPPLEMENTARY INFORMATION."**

FOR FURTHER INFORMATION CONTACT: Kenneth C. Depew, U.S. Department of Education, 400 Maryland Avenue, SW., room 2131 FOB-6, Washington, DC 20202-2241. Telephone: (202) 401-2887. Deaf and hearing impaired individuals may call the Federal Dual Party Relay Service at 1-800-877-8339 (in the Washington DC 202 area code, telephone 708-9300) between 8 a.m. and 7 p.m., Eastern time.

SUPPLEMENTARY INFORMATION: The effective date provision for each of the regulatory documents included in this notice stated that the effective date would be announced in a notice published in the **Federal Register**. Accordingly, this notice announces the following effective dates:

1. 34 CFR part 445, final regulations for the Technology Education Demonstration Program, published May 2, 1991 (56 FR 20308).

DATES: *Effective date:* June 16, 1991.

2. 34 CFR part 222, final regulations for Assistance for Local Educational Agencies in Areas Affected by Federal Activities and Arrangements for Education for Children Where Local Educational Agencies Cannot Provide Suitable Free Public Education, published May 20, 1991 (56 FR 23172).

DATES: *Effective date:* July 17, 1991.

3. 34 CFR parts 97, 350, and 356, final regulations for Protection of Human Subjects, published June 18, 1991 (56 FR 28003).

DATES: *Effective date:* August 19, 1991.

4. 34 CFR part 361, final regulations for the State Vocational Rehabilitation Services Program, published July 18, 1991 (56 FR 33148).

DATES: *Effective date:* September 2, 1991.

5. 34 CFR Parts 668 and 682, final regulations for the Student Assistance General Provisions and Guaranteed Student Loan Programs, published July 19, 1991 (56 FR 33332).

DATES: *Effective date:* September 2, 1991.

6. 34 CFR parts 600 and 668, final regulations for Institutional Eligibility and Student Assistance General Provisions, published July 31, 1991 (56 FR 36682).

DATES: *Effective date:* September 14, 1991.

7. 34 CFR part 347, final regulations for Training and Public Awareness

Projects of National Significance in Technology-Related Assistance for Individuals with Disabilities, published August 13, 1991 (56 FR 40194).

DATES: *Effective date:* September 27, 1991.

8. 34 CFR part 682, final regulations for the Guaranteed Student Loan and PLUS Programs, published September 26, 1991 (56 FR 48990).

DATES: *Effective date:* November 10, 1991.

9. 34 CFR part 307, final regulations for the Services for Children with Deaf-Blindness Program, published October 11, 1991 (56 FR 51582).

DATES: *Effective date:* November 25, 1991.

10. 34 CFR parts 301, 303, 304, 305, 309, 315, 316, 319, 320, 324, 326, 327, 330, 331, 332, 333, and 338, final regulations for the Office of Special Education and Rehabilitative Services, published October 22, 1991 (56 FR 54686).

DATES: *Effective date:* December 28, 1991.

11. 34 CFR part 328, final regulations for the Program for Children and Youth with Serious Emotional Disturbance, published November 4, 1991 (56 FR 56456).

DATES: *Effective date:* December 28, 1991.

12. 34 CFR part 690, final regulations for the Pell Grant Program, published November 6, 1991 (56 FR 56912).

DATES: *Effective date:* December 28, 1991.

13. 34 CFR part 318, final regulations for Training Personnel for the Education of Individuals with Disabilities—Grants for Personnel Training, published November 7, 1991 (56 FR 57198).

DATES: *Effective date:* December 28, 1991.

14. 34 CFR part 668, final regulations for the Student Assistance General Provisions, published December 2, 1991 (56 FR 61330).

DATES: *Effective date:* January 16, 1992.

15. 34 CFR part 325, final regulations for State Systems for Transition Services for Youth with Disabilities, published December 20, 1991 (56 FR 66290).

DATES: *Effective date:* February 3, 1992.

16. 34 CFR part 668, final regulations for the Student Assistance General Provisions, published December 23, 1991 (56 FR 66494).

DATES: *Effective date:* February 6, 1992.

17. 34 CFR part 298, final regulations for Federal, State, and Local Partnership for Educational Improvement, published January 10, 1992 (57 FR 1208).

DATES: *Effective date:* February 27, 1992.

18.–19. 34 CFR part 791, final regulations for the Javits Gifted and Talented Students Education Grant Program, published March 13, 1992 (57 FR 8996).

DATES: *Effective date:* May 6, 1992.

20. 34 CFR parts 642, 643, 644, 645, 646, and 668, final regulations for the Training Program for Special Programs Staff and Leadership Personnel, Talent Search, Educational Opportunity Centers, Upward Bound, and Student Support Services Programs, and Student Assistance General Provisions, published March 13, 1992 (57 FR 9004).

DATES: *Effective date:* May 6, 1992.

21. 34 CFR part 770, final regulations for the Library Services and Construction Act—State-Administered Program, published March 17, 1992 (57 FR 9350).

DATES: *Effective date:* May 6, 1992.

22. 34 CFR part 652, final regulations for the National Science Scholars Program, published March 27, 1992 (57 FR 10724).

DATES: *Effective date:* May 11, 1992.

23. 34 CFR part 222, final regulations for Assistance for Local Educational Agencies in Areas Affected by Federal Activities and Arrangements for Education of Children Where Local Educational Agencies Cannot Provide Suitable Free Public Education, published April 10, 1992 (57 FR 12463).

DATES: *Effective date:* June 10, 1992.

24. 34 CFR part 722, final regulations for the Educational Partnerships Program, published April 23, 1992 (57 FR 14960).

DATES: *Effective date:* June 10, 1992.

(20 U.S.C. 1232(d))

Dated: June 15, 1992.

Jeffrey C. Martin,

General Counsel.

[FR Doc. 92–14537 Filed 6–19–92; 8:45 am]

BILLING CODE 4000–01–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 22

[CC Docket No. 91–33; FCC 92–206]

Petitions for Rule Making Concerning Proposed Changes to the Commission's Cellular Resale Policies

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission adopted a limited exception to its cellular resale policy to allow a facilities-based cellular carrier to deny resale capacity to its facilities-based competitor after that competitor's five-year fill in period has expired. Under the current cellular resale policy, facilities-based carriers in each market are required to provide resale capacity to all, including the second carrier in the same market. This policy offsets any headstart competitive advantage of the first carrier to be granted a construction authorization. However, once the second carrier is fully operational, the rationale for prohibiting resale restrictions between facilities-based carriers ceases to exist. At the end of the five-year fill-in period, a carrier requesting resale capacity from its competitor will have had an opportunity to build out its system and become fully operational. This action is necessary to eliminate unnecessary regulations and to ensure maximum competition between the two facilities-based cellular carriers in each market. The Commission also denied an application for review of a Common Carrier Bureau order, 6 FCC Rcd 4827 (Com. Car. Bur. 1991), denying a motion for stay pending judicial review of the requirement that resale capacity be provided on a nondiscriminatory basis.

EFFECTIVE DATE: July 22, 1992.

FOR FURTHER INFORMATION CONTACT: Dan Abeyta, Mobile Services Division, Common Carrier Bureau ((202) 632–6450).

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order in CC Docket No. 91–33, adopted May 14, 1992, and released June 8, 1992. The full texts of Commission decisions are available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, Downtown Copy Center, (202) 452–1422, 1114 21st Street, NW., Washington, DC 20036.

Paperwork Reduction

This rule has been found to impose no new or modified reporting burdens on the public.

Final Regulatory Flexibility Analysis

Pursuant to the Regulatory Flexibility Act of 1980, 5 U.S.C. section 605(b), it is certified that the final rule does not have a significant economic impact on a substantial number of small entities because, in most cases carriers will be economically motivated to begin all sales from their own facilities as early as possible and to resell their

competitor's service only as an interim measure.

Summary of Report and Order

In the Notice of Proposed Rulemaking and Order (Cellular Resale NPRM/Order), 6 FCC Rcd 1719 (1991), 56 FR 16049 (April 19, 1991) the Commission sought comments on whether it should no longer require a facilities-based carrier to provide resale capacity to its facilities-based competitor in the same market after that competitor is fully operational. The Commission also tentatively concluded that the most appropriate time to cease the competitor resale requirement should be when the five-year fill-in period ends for the facilities-based carrier that is seeking to resell its competitor's capacity.

In response to the Cellular Resale NPRM/Order, the commenting parties distinguished between whether a facilities-based carrier should be required to provide resale capacity to a fully operational facilities-based competitor and, for purposes of terminating competitor resale, when should a facilities-based carrier be considered fully operational.

With respect to the provision of resale capacity to a facilities-based carrier, most of the parties agree that maintaining the resale requirement until both carriers are fully operational helps offset any headstart competitive advantage of the first carrier to be granted a construction authorization. They also generally agree that once the second carrier is fully operational, the rationale for prohibiting resale restrictions ceases to exist. The record also supports a finding that terminating the competitor resale requirement once a facilities-based carrier is fully operational promotes the Commission's goals of stimulating maximum competition between the two carriers in each market, expedites the expansion of both licensee's coverage areas, and spurs the deployment of spectrum-efficient technology. The Report and Order therefore adopts rules to allow a carrier to apply resale restrictions to a fully operational facilities-based competitor.

Also, consistent with our proposal in the Cellular Resale NPRM/Order, the record, on balance, leads to the conclusion that the most appropriate time to cease the competitor resale requirement should be at the end of the second carrier's five year fill-in period. At that time, the second carriers should have had sufficient opportunity to build out its system, while at the same time establishing a date certain for terminating competitor resale. The Report and Order therefore adopts the end of the five year fill-in period as the point for terminating mandatory resale to a facilities-based competitor.

Finally, the Report and Order dismissed an application for review of a Common Carrier Bureau Order denying a motion for stay of the Notice in this proceeding insofar as the Commission clarified the nondiscrimination provisions of the resale requirement.

Ordering Clauses

Accordingly, *it is ordered*, Pursuant to sections 1 4(i), 4(j) and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. sections 151, 154(i), and 154(j) and 303(r), that part 22 is amended as set forth below, effective 30 days after publication in the **Federal Register** (July 22, 1992).

List of Subjects in 47 CFR Part 22

Domestic public cellular radio telecommunications service, Radio.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

Rule Changes

Title 47, part 22 of the Code of Federal Regulations is amended as follows:

PART 22—PUBLIC MOBILE SERVICE

1. The authority citation for part 22 continues to read:

Authority: Secs. 4, 303, 48 Stat. 1066, 1083, as amended: 47 U.S.C. 154, 303.

2. Section 22.914 is revised in its entirety to read as follows:

§ 22.914 Provision of resale capacity and cellular service to subscribers.

(a) A cellular system licensee shall permit unrestricted resale of its service, except that the licensee may apply resale restrictions to the other licensee authorized to provide cellular service in the same market after the five year fill-in period (see §§ 22.31(f) and 22.31(g)) for the licensee requesting resale has expired. The "same market" as used in this section shall mean the Metropolitan Statistical Area (MSA) or Rural Service Area (RSA) for which the licensee was initially granted a construction permit.

(b) Subscriptions to mobile service shall be afforded to the public within the licensee's Cellular Geographic Service Area in chronological order of filing a request for service, except under emergency conditions. Prospective subscribers shall be informed of the area in which reliable service can be expected. If a licensee turns away a request for service due to lack of capacity it shall report that fact to the Commission and indicate how and when it plans to remedy its lack of capacity.

[FR Doc. 92-14644 Filed 6-19-92; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Parts 73 and 76

[MM Docket 91-168; FCC 92-210]

Radio Broadcast and Television Broadcast Services, Cable Television Service; Codification of the Commission's Political Programming Policies

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: By this Order the Commission is revising the rules on political programming policies for radio and television broadcast and cable television services that were addressed in the Report and Order released December 23, 1991, with the exception of the sponsorship identification requirements which were already addressed in the Memorandum Opinion and Order released February 14, 1992. In response to eleven petitions for reconsideration of the R&O the Commission reviewed the petitions and made clarifications to the existing rules. The intended effect of the rules is to ensure that broadcasters, candidates, advertising buyers and the public are fully apprised of the duties required by and rights accorded under the Communications Act with respect to political advertising.

EFFECTIVE DATE: July 22, 1992.

FOR FURTHER INFORMATION CONTACT: Milton O. Gross, Robert L. Baker, Marsha J. MacBride or Maureen A. O'Connell, Mass Media Bureau at (202) 632-7586, or Diane L. Hofbauer, Office of General Counsel at (202) 632-6990.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Memorandum Opinion and Order in Codification of the Commission's Political Programming Policies, MM Docket No. 91-168. The item was adopted May 14, 1992 and released June 11, 1992. The full text of this ruling is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The full text of this item may also be purchased from the Commission's copy contractor, Downtown Copy Center, 1114 21st Street, NW., Washington, DC 20036 (202) 452-1422.

Summary of Memorandum Opinion and Order

I. Introduction and Background

1. In our Report and Order in this docket, released December 23, 1991 (57 FR 189, January 3, 1992; 7 FCC Rcd 678 (1992)), we issued detailed and comprehensive rules designed to ensure that broadcasters, candidates, advertising buyers and the public are fully apprised of the duties required by the rights accorded under the Communications Act with respect to political advertising. On February 3, 1992, the Commission received eleven Petitions for Reconsideration addressing various issues governed by the Report and Order. In response to issues raised in several of these petitions, on February 14, 1992 we released a Memorandum Opinion and Order (57 FR 8278, March 9, 1992; 7 FCC Rcd 1616 (1992)) reconsidering and revising our rules concerning compliance with the sponsorship identification requirements applicable to political broadcasting advertisements. By this action, we address the remaining issues raised in the petitions for reconsideration.

II. Reasonable Access

A. News Programming

2. The Notice of Proposed Rulemaking (NPRM) (56 FR 30526, July 3, 1991) in this proceeding requested comment on whether the Commission should retain its policy that permits broadcasters to refuse to air political advertisements during news programming. In our Report and Order (R&O) we determined that we should continue to allow broadcasters to forego the sale of political advertising during the news, finding that so long as a station makes available to federal candidates a wide array of dayparts and programs, access to news programming is not required to ensure "reasonable access." Moreover, licensees can decide to refuse political advertising in all news programming, during some news programs (i.e., during the 6 p.m. but not 11 p.m. news), or during any portion of a specific news program (i.e., during "hard news" but not weather or sports).

B. News Adjacencies

3. In the R&O we held that rates for specially created "news adjacencies" could not exceed the lowest unit rate charged to commercial advertisers who purchased time during the news. This MO&O clarifies, as requested by several petitioners, that stations are not required to create a separate class of "news adjacency" time if they choose not to do so. Further, stations must limit the rates charged for news adjacencies only if (a) they refuse political advertising during the news and (b) the news adjacency position is sold as a separate class of time.

4. NAB raised the claim that it is unfair to require that news adjacency rates be no higher than for spots sold during the news when the station has elected to preclude candidate access to spots airing during the news. We believe, however, that it would be unfair to permit broadcasters to preclude access to the news and to charge candidates higher rates for news adjacencies if such news adjacencies provide the only direct means for candidates to reach the news-viewing public.

C. Weekend Hours

5. In response to NAB and DLA petitions, we confirm that if a station has provided weekend access to any commercial advertiser during the year preceding an election period, but only for a limited purpose such as changing copy, then weekend access for candidates can be limited to the same purpose. In addition, in response to DLA's inquiry, we hold that stations may hold candidates to the same ordering deadlines as commercial advertisers so long as they do not conflict with a federal candidate's right to reasonable access or to any candidate's right to equal opportunities.

D. Access to Cable

6. In the R&O, we affirmed our earlier conclusion that the reasonable access requirement of section 312(a)(7) does not apply to cable. Thus, we agree with DLA that cable operators can restrict access to particular programs or channels and can determine what lengths of spots or program time candidates can purchase on cable channels. However, because section 315 does apply to cable operators, cable operators cannot limit the classes of time they will make available to candidates, to the extent that those classes of time have associated discount privileges.

III. Equal Opportunities

A. Definition of "Use"

7. We will continue to interpret section 315 "uses" as we did in the R&O to include only non-exempt candidate appearances that are "controlled, approved or sponsored by the candidate (or the candidate's authorized committee) after the candidate becomes legally qualified. Contrary to concerns raised by some commenters, this narrow definition will not encourage "collusion" between candidates and independent groups because FECA expressly requires that political advertising clearly state who pays for a political advertisement, and whether or not it was authorized by a candidate.

B. Bona Fide Newscast Exemption

8. The MO&O reaffirms the Commission's prior holding that the absence of complete licensee control over a newscast's production does not preclude the application of the statutory newscast exemption from equal opportunities.

IV. Lowest Unit Charge

A. Nondiscrimination Policies

9. The MO&O clarifies that stations remain under a duty to make advertising time available to candidates subject to the same rates, terms and conditions as it is made available to commercial advertisers. Since adoption of the R&O, we have become aware that, in revising our rules to update and codify our political broadcasting policies, we inadvertently deleted any specific reference to these policies that require stations to offer advertising time to candidates on an equal basis with commercial advertisers. Thus, in appendix B to this Order we have included revisions to the rules adopted on December 23, 1991 to correct this omission.

B. Classes of Immediately Preemptible Time

10. We reaffirm the conclusion that stations may establish more than one class of immediately preemptible time. At the request of several petitioners, we elaborated on the permissible factors a station can use to distinguish such separate classes. We stated that a station may not use price alone to differentiate classes of time because the LUC requirement would be defeated. Thus, for stations selling exclusively by auction, only one class of immediately preemptible time will be possible. A station may, however, differentiate immediately preemptible classes by pointing to a demonstrable benefit associated with a specified price level or range of prices for each immediately preemptible class, such as a projected lowered risk of preemption, increased scheduling flexibility or special make good guarantees.

C. Special Candidate Class of Time

11. The MO&O clarifies the specific nature of a permissible discounted class of candidate-only time. A station *may* offer a special discounted class of non-preemptible time to candidates only, even if that station does not sell non-preemptible time at all to commercial

advertisers, so long as (a) the station can show that a commercial advertiser buying preemptible time at that rate runs a genuine risk of preemption; (b) commercial advertisers cannot buy any preemptible class that, in reality, is the functional equivalent of the station "special" non-preemptible candidate-only class of time; and (c) the station discloses and offers all preemptible rates to candidates, and describes the likelihood of preemption for its preemptible rates.

D. Sold Out Time

12. We respond to CBS's request for clarification of the sold-out policy. Our policy is premised on the assumption that preemptible time is sold to all advertisers in an auction-like manner, with no established rate ceiling for preemptible time, whereby advertisers can continue to preempt each other simply by paying an incrementally higher price. In such a situation, it is not possible for preemptible time to be "sold out," and thus a station may not steer a candidate to buy higher-priced non-preemptible time by informing the candidate that preemptible time is sold out. The MO&O recognizes, however, that if a station sells preemptible time in some other manner, such as at a single flat rate that can only be preempted by a non-preemptible spot, it would be possible for the station to be sold out of preemptible time, and that under such circumstances it would be permissible for a station to inform a candidate that it is necessary to buy non-preemptible time in order to clear. Similarly, if a station offers one or more classes of immediately preemptible time with price ceilings established for each class, it would likewise be possible for the station to be sold out of one or more of such classes of immediately preemptible time.

E. Package Plans and Bonus Spots

13. The MO&O reaffirms the treatment of package plans adopted in the R&O. Under our new approach, package plans and bonus spots are considered volume discounts, and broadcasters must assign a value to all such spots to determine the LUC for each type of spot. The MO&O does, however, afford stations flexibility to record the value assigned to each spot in several ways: On the contract, on the invoice, or in a separate, internal document that is prepared contemporaneously with the formation of the contract and is signed and dated by an authorized representative of the station. In addition, the MO&O concludes that, while some package plans sold to commercial advertisers may include free public service announcements (PSAs), it is unnecessary and inappropriate to require stations to make PSAs available to candidates on the same basis because of the nature of PSAs. Instead, the MO&O requires stations to treat PSAs of a sufficient length as a bonus spot, assigning a value to the PSA which thus reduces the price allocated to other spots in the package for LUC purposes. Therefore, candidates still receive an LUC benefit from this commercial practice involving PSAs without forcing stations to provide additional coverage of a candidate in the form of a PSA.

F. Billboards, Sponsorships and Merchandising Incentives

14. The R&O required stations to offer noncash promotional incentives, such as prizes, mugs or trips, to candidates on the same basis as they are made available to commercial advertisers. The MO&O modifies the R&O to provide that noncash merchandising and promotional incentives need not be offered to candidates if they are either *de minimus* in value (such as coffee mugs or billboards), or may reasonably imply a relationship between the station and the advertiser (such as bumper stickers that identify the station and the advertiser), or the program and the advertiser (such as billboards or program sponsorships).

G. Make Goods

15. The MO&O reaffirmed the R&O's conclusion that timely make goods should be provided to candidates if the station has provided a time-sensitive make good to any commercial advertiser during the year preceding the election period. The MO&O modified this requirement, however, with respect to make goods that are given for audience underdelivery if pertinent audience information is not ascertainable until after the election, holding that this fact must be disclosed to candidates so they are able to negotiate an alternative to the audience underdelivery promise.

H. Weekly Rotations

16. The MO&O reaffirms the R&O's determination that "distinctly different rotations" may be treated separately for LUC purposes, and clarifies that the determination of whether rotations are distinctly different will be left to the reasonable, good faith judgment of the station, so long as they correspond to the station's normal business practices.

I. Fire Sale

17. We are persuaded by the petitioners that it is now appropriate to discontinue the fire sale policy. As stated in the R&O, the initial fire sale policy was adopted at a time when stations typically sold time on a nonpreemptible, fixed rate basis. Now, when rates change rapidly based on supply and demand, a soft market that would have prompted a fire sale in previous years would today be reflected in continuous pricing adjustments. Moreover, given the degree of inventory price fluctuation, it is impractical to establish a bright line test as to when a "fire sale" has occurred. We also agree with petitioners that, as a practical matter, elimination of the fire sale policy will have very little effect on the LUC for any given time period, because candidates who buy time which happens to clear in the same time period as a last minute sale of time at a lower rate will still be entitled to the lowest sale rate for the same class of time.

J. Disclosure Obligation

18. The MO&O reaffirms the R&O's holding that, given the complex nature of advertising sales practices, the precise method of fulfilling the station's disclosure obligation should be left to the discretion of the station, so long as disclosure includes the following minimum requirements previously articulated by the Commission:

(a) A description and definition of each class of time available to commercial advertisers which is complete enough to allow candidates to identify and understand what specific attributes differentiate each class;

(b) A complete description of the lowest unit charge and related privileges (such as priorities against preemption and time-sensitive make goods) for each class of time offered to commercial advertisers;

(c) A description of the station's method of selling preemptible time based on advertiser demand, commonly known as "the current selling level," with the stipulation that candidates will be able to purchase at these demand-generated rates in the same manner as commercial advertisers;

(d) An approximation of the likelihood of preemption for each kind of preemptible time; and

(e) An explanation of the station's sales practices, if any, that are based on audience delivery.

19. The MO&O also addressed specific questions related to disclosure, stating that: (1) Stations are required to disclose only their best estimate of the LUC for each class of time sold if it is not possible to ascertain the exact LUC until after the spot airs; and (2) If a station offers a special discounted non-preemptible rate to candidates, it must

nonetheless disclose the availability and characteristics of all other classes of time. The MO&O also amended the disclosure rule to incorporate the non-discrimination duty discussed under section IIIA, *supra*.

20. Finally, the MO&O stated that the disclosure obligation applies to comparable rates as well as to LUC rates. Because the disclosure rules are inherent in a broadcaster's duty to "make available" rates to candidates, we have determined that they apply to both LUC and comparable rates in order to fully inform candidates seeking to purchase advertising time.

V. Political File

21. The MO&O reaffirms the Commission's rule that the political file must contain all requests for time by candidates and their disposition. The station must determine whether a request for "availabilities," and any ensuing discussion, constitutes a "request for time" that must be noted in the file. The MO&O further states that, because advertising time can be purchased or ordered in a variety of ways, it is not possible for the Commission to articulate a definitive list of what must be contained in the file beyond the articulated guidelines. We are persuaded by the commenters, however, that stations need not be required to employ extraordinary efforts to place immediately in the political file information concerning the exact time that candidate spots aired. Instead, the station may place such information in the file pursuant to customary business practices, so long as the station advises candidates that, upon request, it will provide immediate assistance and access to its logs (or other definitive information) to candidates seeking precise air time information regarding their opponents.

Ordering Clauses

22. Accordingly, *It is ordered*, that the Petitions for Reconsideration are granted to the extent indicated herein, and are otherwise denied.

23. *It is further ordered* that, pursuant to authority contained in sections 312(a)(7), 315, 303(r) and 4(i) of the Communications Act of 1934, as amended, 47 U.S.C. 312(a)(7), 315, 303(r), 154(i), the Commission's Rules are amended as set forth below, effective 30 days after date of publication in the **Federal Register**.

List of Subjects

47 CFR Part 73

Radio broadcasting, Television broadcasting.

47 CFR Part 76

Cable television, Political candidates.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

Rule Changes

The rules adopted by the Commission in its December 23, 1992 **Report and Order** are hereby amended as follows:

Parts 73 and 76 of chapter I of title 47 of the Code of Federal Regulations are amended as follows:

PART 73—[AMENDED]

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

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

2. Section 73.1940 is revised to read as follows:

§ 73.1940 Legally qualified candidates for public office.

(a) A legally qualified candidate for public office is any person who:

(1) Has publicly announced his or her intention to run for nomination or office;

(2) Is qualified under the applicable local, State or Federal law to hold the office for which he or she is a candidate; and

(3) Has met the qualifications set forth in either paragraph (b), (c), (d), or (e) of this section.

(b) A person seeking election to any public office including that of President or Vice President of the United States, or nomination for any public office except that of President or Vice President, by means of a primary, general or special election, shall be considered a legally qualified candidate if, in addition to meeting the criteria set forth in paragraph (a) of this section, that person:

(1) Has qualified for a place on the ballot; or

(2) Has publicly committed himself or herself to seeking election by the write-in method and is eligible under applicable law to be voted for by sticker, by writing in his or her name on the ballot or by other method, and makes a substantial showing that he or she is a bona fide candidate for nomination or office.

(c) A person seeking election to the office of President or Vice President of the United States shall, for the purposes of the Communications Act and the rules in 47 CFR chapter I, be considered legally qualified candidates only in those States or territories (or the District of Columbia) in which they have met the requirements set forth in paragraphs (a) and (b) of this section: Except, that any such person who has met the requirements set forth in paragraphs (a) and (b) of this section in at least 10 States (or 9 and the District of Columbia) shall be considered a legally qualified candidate for election in all States, territories, and the District of Columbia for the purposes of this Act.

(d) A person seeking nomination to any public office, except that of President or Vice President of the United States, by means of a convention, caucus or similar procedure, shall be considered a legally qualified candidate if, in addition to meeting the requirements set forth in paragraph (a) of this section, that person makes a substantial showing that he or she is a bona fide candidate for such nomination: Except, that no person shall be considered a legally qualified candidate for nomination by the means set forth in this paragraph prior to 90 days before the beginning of the convention, caucus or similar procedure in which he or she seeks nomination.

(e) A person seeking nomination for the office of President or Vice President of the United States shall, for the purposes of the Communications Act and the rules thereunder, be considered a legally qualified candidate only in those States or territories (or the District of Columbia) in which, in addition to meeting the requirements set forth in paragraph (a) of this section:

(1) He or she, or proposed delegates on his or her behalf, have qualified for the primary or Presidential preference ballot in that State, territory or the District of Columbia; or

(2) He or she has made a substantial showing of a bona fide candidacy for such nomination in that State, territory or the District of Columbia; except, that any such person meeting the requirements set forth in paragraphs (a)(1) and (2) of this section in at least 10 States (or 9 and the District of Columbia) shall be considered a legally qualified candidate for nomination in all States, territories and the District of Columbia for purposes of this Act.

(f) The term "substantial showing" of a bona fide candidacy as used in paragraphs (b), (d) and (e) of this section means evidence that the person claiming to be a candidate has engaged to a substantial degree in activities commonly associated with political campaigning. Such activities normally would include making campaign speeches, distributing campaign literature, issuing press releases, maintaining a campaign committee, and establishing campaign headquarters (even though the headquarters in some instances might be the residence of the candidate or his or her campaign

manager). Not all of the listed activities are necessarily required in each case to demonstrate a substantial showing, and there may be activities not listed herein which would contribute to such a showing.

4. Section 73.1942 is amended by revising the section heading and paragraph (a)(1)(i), by removing and reserving paragraph (a)(1)(vii), and by revising paragraphs (a)(1)(xii), (a)(2) and (b) introductory text to read as follows:

§ 73.1942 Candidate rates.

(a) * * *

(1) * * *

(i) A candidate shall be charged no more per unit than the station charges its most favored commercial advertisers for the same classes and amounts of time for the same periods. Any station practices offered to commercial advertisers that enhance the value of advertising spots must be disclosed and made available to candidates on equal terms. Such practices include but are not limited to any discount privileges that affect the value of advertising, such as bonus spots, time-sensitive make goods, preemption priorities, or any other factors that enhance the value of the announcement.

* * * * *

(xii) Makes goods, defined as the rescheduling of preempted advertising, shall be provided to candidates prior to election day if a station has provided a time-sensitive make good during the year preceding the pre-election periods, perspectively set forth in paragraph (a)(1) of this section, to any commercial advertiser who purchased time in the same class.

* * * * *

(2) At any time other than the respective periods set forth in paragraph (a)(1) of this section, stations may charge legally qualified candidates for public office no more than the changes made for comparable use of the station by commercial advertisers. The rates, if any, charged all such candidates for the same office shall be uniform and shall not be rebated by any means, direct or indirect. A candidate shall be charged no more than the rate the station would charge for comparable commercial advertising. All discount privileges otherwise offered by a station to commercial advertisers must be disclosed and made available upon equal terms to all candidate for public office.

(b) If a station permits a candidate to use its facilities, the station shall make all discount privileges offered to commercial advertisers, including the lowest unit charges for each class and length of time in the same time period, and all corresponding discount privileges, available upon equal terms to all candidates. This duty includes an affirmative duty to disclose to candidates information about rates, terms conditions and all value-enhancing discount privileges offered to commercial advertisers. Stations may use reasonable discretion in making the disclosure; provided, however, that the disclosure includes, at a minimum, the following information:

* * * * *

PART 76—[AMENDED]

5. The authority citation for part 76 continues to read:

Authority: Secs. 2, 3, 4, 301, 303, 307, 308, 309, 48 Stat., as amended, 1064, 1065, 1066, 1081, 1082, 1083, 1084, 1085; 47 U.S.C. 152, 153, 154, 301, 303, 307, 308, 309.

6. Section 76.206 is amended by revising the section heading and paragraph (a)(1)(i), by removing and reserving paragraph (a)(1)(vii), and by revising paragraphs (a)(1)(xii), (a)(2) and (b) introductory text to read as follows:

§ 76.206 Candidate rates.

(a) * * *

(1) * * *

(i) A candidate shall be charged no more per unit than the system charges its most favored commercial advertisers for the same classes and amounts of time for the same periods. Any system practices offered to commercial advertisers that enhance the value of advertising spots must be disclosed and made available to candidates upon equal terms. Such practices include but are not limited to any discount privileges that affect the value of advertising, such as bonus spots, time-sensitive make goods, preemption priorities, or any other factors that enhance the value of the announcement.

* * * * *

(xii) Make goods, defined as the rescheduling of preempted advertising, shall be provided to candidates prior to election day if a system has provided a time-sensitive make good during the year preceding the pre-election periods, respectively set forth in paragraph (a)(1) of this section, to any commercial advertiser who purchased time in the same class.

* * * * *

(2) At any time other than the respective periods set forth in paragraph (a)(1) of this section, systems may charge legally qualified candidates for public office no more than the charges made for comparable use of the system by commercial advertisers. The rates, if any, charged all such candidates for the same office shall be uniform and shall not be rebated by any means, direct or indirect. A candidate shall be charged no more than the rate the system would charge for comparable commercial advertising. All discount privileges otherwise offered by a system to commercial advertisers must be disclosed and made available upon equal terms to all candidates for public office.

(b) If a system permits a candidate to use its cablecast facilities, the system shall make all discount privileges offered to commercial advertisers, including the lowest unit charges for each class and length of time in the same time period and all corresponding discount privileges, available on equal terms to all candidates. This duty includes an affirmative duty to disclose to candidates information about rates, terms, conditions and all value-enhancing discount privileges offered to commercial advertisers. Systems may use reasonable discretion in making the disclosure; provided, however, that the disclosure includes, at a minimum, the following information:

* * * * *

[FR Doc. 92-14379 Filed 6-19-92; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 672

[Docket No. 911176-2018]

Groundfish of the Gulf of Alaska

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Closure.

SUMMARY: NMFS is closing the directed fishery for pollock in statistical area 62 in the Gulf of Alaska (GOA). This action is necessary to prevent exceeding the second quarterly allowance of the total allowable catch (TAC) for pollock in this area.

DATES: Effective 12 noon, Alaska local time (A.l.t.), June 17, 1992, until 12 noon, A.l.t., June 29, 1992.

FOR FURTHER INFORMATION CONTACT: Patsy A. Bearden, Resource Management Specialist, Fisheries Management Division, NMFS, 907-586-7228.

SUPPLEMENTARY INFORMATION: The groundfish fishery in the exclusive economic zone within the GOA is

managed by the Secretary of Commerce according to the Fishery Management Plan for Groundfish of the GOA (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson Fishery Conservation and Management Act. Fishing by U.S. vessels is governed by regulations implementing the FMP at 50 CFR parts 620 and 672.

The second quarterly allowance of pollock TAC to statistical area 62 is 4,246 metric tons, determined in accordance with § 672.20(a)(2)(iv).

Under § 672.20(c)(2)(ii), the Director of the Alaska Region, NMFS, has determined that the second quarterly allowance of pollock TAC to statistical area 62 will soon be reached. Consequently, NMFS is prohibiting directed fishing for pollock in statistical area 62, effective from 12 noon A.l.t., June 17, 1992, until 12 noon, A.l.t., June 29, 1992.

Directed fishing standards for applicable gear types may be found in the regulations at § 672.20(g).

Classification

This action is taken under 50 CFR 672.20 and is in compliance with E.O. 12291.

List of Subjects in 50 CFR Part 672

Fisheries, Reporting and recordkeeping requirements.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: June 16, 1992.

Alfred J. Bilik,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 92-14527 Filed 6-16-92; 4:48 pm]

BILLING CODE 3510-22-M

50 CFR Part 675

[Docket No. 911172-2021]

Groundfish of the Bering Sea and Aleutian Islands

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Closure to directed fishing in the Aleutian Islands subarea.

SUMMARY: NMFS is prohibiting directed fishing for the shortraker-rougheye species group in the Aleutian Islands subarea (AI). This action is necessary to prevent the total allowable catch (TAC) for the shortraker-rougheye species group in the AI from being exceeded. The intent of this action is to promote optimum use of groundfish while conserving shortraker-rougheye stocks.

DATES: Effective 12 noon, Alaska local time (A.l.t.), June 29, 1992, through 12 midnight, A.l.t., December 31, 1992.

FOR FURTHER INFORMATION CONTACT: Andrew N. Smoker, Resource Management Specialist, NMFS, 907-586-7228.

SUPPLEMENTARY INFORMATION: The Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (FMP) governs the groundfish fishery in the exclusive economic zone in the Bering Sea and Aleutian Islands area under the Magnuson Fishery Conservation and Management Act. The FMP was prepared by the North Pacific Fishery Management Council and is implemented by regulations appearing at 50 CFR 611.93 and part 675.

The amount of a species or species group apportioned to a fishery is defined as TAC at § 675.20(a)(2). Under the final notice of initial specifications (57 FR 3952), February 3, 1992), the TAC of shortraker-rougheye for the AI was established as 1,220 metric tons (mt). Under § 675.20(a)(3), 15 percent of the TAC (183 mt) was apportioned to a non-specific reserve, leaving an initial TAC of 1,037 mt.

The Director of the Alaska Region, NMFS (Regional Director), has determined that the TAC of shortraker-rougheye for the AI will be reached before the end of the year and that 100 mt of shortraker-rougheye will be necessary as bycatch in other directed fisheries. Under § 675.20(a)(8), the Regional Director is establishing a directed fishing allowance of 937 mt, and NMFS is prohibiting directed fishing for the shortraker-rougheye species group in the AI effective 12 noon, A.l.t., June 29, 1992, through 12 midnight, A.l.t., December 31, 1992.

Directed fishing standards for applicable gear types may be found in the regulations at § 675.20(h) and 57 FR 11433 (April 3, 1992).

Classification

This action is taken under 50 CFR 675.20 and is in compliance with 12291.

List of Subjects in 50 CFR Part 675

Fisheries, Reporting and recordkeeping requirements.

Authority: 16 U.S.C. 1801 *et seq.*

Alfred J. Bilik,

Acting Director, National Marine Fisheries Service.

[FR Doc. 92-14551 Filed 6-19-92; 8:45 am]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 57, No. 120
Monday, June 22, 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.

NUCLEAR REGULATORY COMMISSION

10 CFR Parts 20, 30, 32, and 35

Workshop to Discuss Topics Related to "Pregnancy," "Radioactive Drugs," and "Patient Release Criteria"

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of meeting.

SUMMARY: The Nuclear Regulatory Commission (NRC) staff plans to convene a public workshop with representatives of Agreement States to discuss issues related to three topics. The first topic involves the proposed resolution of a petition for rulemaking submitted by the American College of Nuclear Physicians and the Society of Nuclear Medicine concerning the preparation and use of radioactive drugs containing byproduct material. The second topic involves the administration of byproduct material or radiation therefrom to patients of childbearing potential who may be pregnant or breast feeding. The third topic involves the proposed resolution of petitions for rulemaking submitted by Dr. Carol Marcus and by the American College of Nuclear Medicine concerning the criteria for release of patients from hospitals for those patients who have been administered byproduct material.

DATE: The workshop will be held on July 15 and 16, 1992, from 8:30 a.m. to 5 p.m. or later on the first day and from 8:30 a.m. to 3:45 p.m. or later on the second day.

ADDRESSES: Meeting to be held at Lenox Inn, 3387 Lenox Road, NE., Atlanta, GA 30326 (telephone 404-261-5500).

FOR FURTHER INFORMATION CONTACT: Vandy L. Miller, Office of State Programs, 3D23, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 504-2326.

SUPPLEMENTARY INFORMATION: The objective of the workshop is to conduct a roundtable discussion with representatives of Agreement States on the key issues related to three topics which are described below.

The American College of Nuclear Physicians (ACNP) and the Society of Nuclear Medicine (SNM) submitted a petition for rulemaking requesting that the NRC amend its regulations pertaining to the preparation and use of radioactive drugs containing byproduct material. Two issues of the petition (i.e., departure from manufacturer's instructions for preparing radiopharmaceuticals using nuclide generators and reagent kits, and departure from package insert instructions regarding indications and method of administration for therapeutic radiopharmaceuticals) were temporarily addressed in the interim final rule, that became effective on August 23, 1990 for 3 years. Three remaining issues are whether to allow: (1) Human research using byproduct material; (2) the use of radiolabeled biological products; and (3) compounding radioactive drugs (i.e., synthesized from reagent chemicals) by qualified nuclear pharmacists. The NRC is in the process of resolving all issues of the petition.

The NRC is considering issues related to administration of byproduct material or radiation therefrom to a patient of childbearing potential without first determining whether the patient is pregnant or breast feeding. It is a matter of record that some medical use licensees have administrated byproduct material to patients of childbearing potential who were pregnant or breast feeding without knowing the patient's pregnancy or breast feeding status. The consequences were that unintended radiation exposures were delivered to an embryo, fetus, or breast-fed infant. The NRC is considering adding two more objectives to the Quality Management Program (10 CFR 35.32) to ensure a high level of confidence that unintended radiation exposures to an embryo, fetus, or breast-fed infant will be prevented. The objective for all radiopharmaceutical administrations (i.e., diagnostic and therapeutic) would be that, "prior to each administration, patients of childbearing potential be alerted to notify the authorized user physician or technologist if they are pregnant or breast feeding." The objective for all administrations, for which a written directive is required pursuant to 10 CFR 35.32(a), would be that, "prior to administration, the authorized user physician shall come to a conclusion, through a reasoned and professional judgment on the patient's pregnancy and breast feeding status and provide that status in the written directive."

Dr. Carol Marcus submitted a petition for rulemaking requesting a modification of the public dose limits in the revised 10 CFR part 20. The concern expressed in the petition was that the revised dose limit of 100 millirem total effective dose equivalent was in conflict with the criteria in 10 CFR 35.75 for release of patients from hospitals for those patients who have been administered byproduct material. During the public comment period on the receipt of the petition by Dr. Marcus, the American College of Nuclear Medicine (ACNM) submitted a petition for rulemaking specifically related to the release criteria in 10 CFR 35.75. The ACNM petition suggested that the approach to establishing release criteria be modified to a dose based approach as outlined in Report 37 of the National Council on Radiation Protection and Measurements. The NRC staff is considering the appropriateness of addressing these two petitions simultaneously, and whether the existing approach to patient release criteria in 10 CFR 35.75 should be modified.

Conduct of the Meeting

The workshop will be co-chaired by the undersigned and Dr. John E. Glenn, Chief, Medical and Commercial Use Safety Branch, Division of Industrial and Medical Nuclear Safety, NRC. The moderator will be Mr. John L. Telford, Acting Chief, Regulation Development Branch, Division of Regulatory Applications, Office of Nuclear Regulatory Research, NRC. The workshop will be conducted in a manner that will facilitate the orderly conduct of business. The transcript of the workshop will be available for inspection, and copying for a fee, at the NRC Public Document Room, 2120 L Street NW. (Lower Level), Washington, DC 20555, on or about August 31, 1992.

The following procedures apply to public attendance at the workshop:

1. Questions or statements from attendees other than participants (i.e., participating representative of each Agreement state and participating NRC staff) will be entertained as time permits.

2. Seating for the public will be on a first-come first-served basis.

Dated at Rockville, Maryland, this 12th day of June 1992.

For the Nuclear Regulatory Commission.

Carlton Kammerer,

Director, Office of State Programs.

[FR Doc. 92-14605 Filed 6-19-92; 8:45 am]

BILLING CODE 7590-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 91-NM-251-AD]

Airworthiness Directives; Airbus Industrie Model A320 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Supplemental notice of proposed rulemaking; reopening of comment period.

SUMMARY: This document revises an earlier proposed airworthiness directive (AD), applicable to certain Airbus Industrie Model A320 series airplanes, that would have required inspection to detect chafing of the wire looms in the wing and the horizontal stabilizer, and repair or replacement, protection, and realignment, if necessary. That proposal was prompted by an incident in which a wire loom short circuit caused fire extinguishant to discharge and pop the circuit breaker for a brake fan. This action revises the proposed rule by revising the inspection area requirements, increasing the repetitive inspection intervals, and adding two airplanes to the applicability of the AD. The actions specified by this proposed AD are intended to prevent electrical short circuiting due to chafing of the wire loom in the wing and the horizontal stabilizer.

DATES: Comments must be received by July 13, 1992.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM-103, Attention: Rules Docket No. 91-NM-251-AD, 1601 Lind Avenue SW., Renton, Washington 98055-4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Airbus Industrie, Airbus Support Division, Avenue Didier Daurat, 31700 Blagnac, France. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Greg Holt, Aerospace Engineer, Standardization Branch, ANM-113, FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98055-4056; telephone (206) 227-2140; fax (206) 227-1320.

SUPPLEMENTARY INFORMATION:

Comments Invited

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 91-NM-251-AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM-103, Attention: Rules Docket No. 91-NM-251-AD, 1601 Lind Avenue SW., Renton, Washington 98055-4056.

Discussion

A proposal to amend part 39 of the Federal Aviation Regulations to add an airworthiness directive (AD), applicable to certain Airbus Industrie Model A320 series airplanes, was published as a notice of proposed rulemaking (NPRM) in the **Federal Register** on January 10, 1992 (57 FR 1120). That NPRM would have required inspection to detect chafing of the wire looms in the wing and the horizontal stabilizer, and repair or replacement, protection, and realignment, if necessary. That NPRM was prompted by an incident in which a wire loom short circuit caused fire extinguishant to discharge and pop the circuit breaker for a brake fan. That condition, if not corrected, could result in electrical short circuiting due to chafing of the wire loom in the wing and the horizontal stabilizer.

Since the issuance of that NPRM, Airbus Industrie has issued Revision 2 to Service Bulletin A320-24-1044, dated March 3, 1992; and Revision 2 to Service Bulletin A320-24-1045, dated April 9, 1992.

Revision 2 of Airbus Service Bulletin A320-24-1044 provides clarification of the inspection areas by highlighting critical zones where wire loom chafing had occurred (wing zones 574 and 674 through panels 574 AB and 674 AB), leading to engine extinguisher bottle discharge. The FAA has revised paragraphs (a) and (b) of the NPRM accordingly.

The service bulletin revision also describes a revision to the intervals for repetitive inspections of the wire looms in the wing and horizontal stabilizer (excluding wing zones 574 and 674 through panels 574AB and 674AB) from 3,100 to 3,500 flight hours. The FAA has revised the repetitive inspection intervals required by paragraph (b) of the NPRM to coincide with this change.

The service bulletin revision provides clarification concerning the conditions that would require realignment and protection of the wire loom. The FAA has revised paragraphs (a)(2) and (b)(2) of the NPRM to include this clarification. Should an operator choose to accomplish the temporary repair required by paragraph (a)(2) or (b)(2) of the proposed AD, the operator then would be required to accomplish realignment and protection of the loom at a specified interval after performing the temporary repair. (This requirement is specified in new proposed paragraph (c).)

In addition, this service bulletin revision adds two airplanes to the effectivity. Since two additional airplanes that are subject to the unsafe condition have been identified, the FAA has revised the applicability of the NPRM to include these airplanes.

Revision 2 to Airbus Service Bulletin A320-24-1045 revises certain modification numbers, revises the effectivity, and describes alternative materials and material specifications that are available to operators.

The FAA has revised the proposal to reflect these latest revisions to the service bulletins as additional service information sources.

Since these changes expand the scope of the originally proposed rule, the FAA has determined that it is necessary to reopen the comment period to provide additional opportunity for public comment.

The FAA estimates that 32 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 10 work hours per airplane to accomplish the proposed actions, and that the average labor rate is $55 per work hour. Required parts would be nominal in cost. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $17,600.

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Airbus Industrie: Docket 91–NM–251–AD.

Applicability: Model A320 series airplanes, manufacturer's serial numbers through 169, inclusive, certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent an electrical short circuit due to chafing of the wire loom in the wing and the horizontal stabilizer, accomplish the following:

(a) Prior to the accumulation of 450 hours time-in-service after the effective date of this AD, inspect the wire looms in wing zones 574 and 674 through panels 574AB and 674AB to detect chafing or contact with the end fittings of the protective conduit, in accordance with Airbus Industrie Service Bulletin A320–24–1044, Revision 2, dated March 3, 1992. Repeat this inspection, thereafter, at intervals not to exceed 450 hours time-in-service.

(1) If any wire is found chafed or damaged due to overheating, prior to further flight, repair or replace it in accordance with the Airplane Maintenance Manual or Aircraft Wiring Manual.

(2) If any wire loom is found in contact with the edge of the conduit end fitting, or which might come in contact with the edge of the conduit end fitting due to vibration in flight, prior to further flight, realign and protect the loom in accordance with Airbus Industrie Service Bulletin A320–24–1045, Revision 2, dated April 9, 1992; or in accordance with the temporary repair described in paragraph 2.B.(2)(b) of Airbus Service Bulletin A320–24–1044, Revision 2, dated March 3, 1992.

(b) Prior to the accumulation of 1,500 hours time-in-service after the effective date of this AD, inspect the wire looms in the wing and horizontal stabilizer, excluding wing zones 574 and 674 through panels 574AB and 674AB, to detect chafing or contact with the ending fittings of the protective conduit, in accordance with Airbus Industrie Service Bulletin A320–24–1044, Revision 2, dated March 3, 1992. Repeat this inspection, thereafter, at intervals not to exceed 3,500 hours time-in-service.

(1) If any wire is found chafed or damaged due to overheating, prior to further flight, repair or replace it in accordance with the Airplane Maintenance Manual or Aircraft Wiring Manual.

(2) If any wire loom is found in contact with the edge of the conduit end fitting, or which might come in contact with the edge of the conduit end fitting due to vibration in flight, prior to further flight, realign and protect the loom in accordance with Airbus Industrie Service Bulletin A320–24–1045, Revision 2, dated April 9, 1992; or in accordance with the temporary repair described in paragraph 2.B.(6)(b) of Airbus Service Bulletin A320–24–1044, Revision 2, dated March 3, 1992.

(c) If a temporary repair is accomplished in accordance with paragraph (a)(2) or (b)(2) of this AD, prior to the accumulation of 450 hours time-in-service after the accomplishment of that temporary repair, realign and protect the loom in accordance with Airbus Industrie Service Bulletin A320–24–1045, Revision 2, dated April 9, 1992.

(d) Accomplishment of the realignment and protection of the looms in accordance with Airbus Industrie Service Bulletin A320–24–1045, Revision 2, dated April 9, 1992, constitutes terminating action for the repetitive inspections required by paragraphs (a) and (b) of this AD.

(e) An alternative method of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate. The request shall be forwarded through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Standardization Branch, ANM–113.

Note: Information concerning the existence of approved alternative methods of compliance with this airworthiness directive, if any, may be obtained from the Standardization Branch, ANM–113.

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

Issued in Renton, Washington, on May 29, 1992.

Bill R. Boxwell,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 92–14621 Filed 6–19–92; 8:45 am]

BILLING CODE 4910–13–M

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 19

Reporting Cash Positions in the Grains (Including Soybeans) and Cotton

AGENCY: Commodity Futures Trading Commission.

ACTION: Proposed rulemaking.

SUMMARY: The Commodity Futures Trading Commission (Commission) is proposing to amend 17 CFR part 19, of its regulations to reduce the frequency of reporting by large traders on Forms 204 and 304 from a weekly to a monthly basis. This change will achieve about a 77 percent reduction in the number of reports that are required without materially reducing the Commission's ability to monitor compliance with its speculative position limit rules.

DATES: Comments on this proposed rulemaking should be submitted on or before July 22, 1992.

ADDRESSES: Comments should be sent to the Office of the Secretariat, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, DC 20581, and should make reference to "large trader reports." Telephone (202) 254–3310.

FOR FURTHER INFORMATION CONTACT: Lamont L. Reese, Division of Economic

Analysis, 2033 K Street, NW., Washington, DC 20481, Telephone (202) 254-3310.

SUPPLEMENTARY INFORMATION:

I. Background

The Commission periodically reviews information it receives through its large trader reporting system to determine if such information is adequate for effective market surveillance. In this regard, the Commission also is mindful of the reporting burden associated with these requirements and reviews them with an eye to ameliorating that burden to the extent compatible with its regulatory mission and while maintaining adequate market coverage.

The Commission currently requires that persons owning or controlling futures positions in commodities for which the Commission has established speculative limits file reports concerning their long and short cash positions, *i.e.*, stocks of the commodities owned and the quantity of their fixed-price purchase and sale commitments, 17 CFR part 19 (1991). These commodities include the grains, the soybean complex and cotton. 17 CFR part 150 (1991). The primary purpose for these reports is to determine if the futures positions of traders that exceed the Commission's speculative limits qualify as bona fide hedging transactions or positions as defined in § 1.3(z) of the Commission's regulations.[1] Additionally, merchants and dealers in cotton must provide information on the quality of their "call purchases and sales." [2] Information concerning call purchases and sales is used as a basis for the Commission's weekly "Cotton on Call" report.

With the exception of merchants and dealers in cotton, reporting levels for cash position reports (CFTC Forms 204 and 304) are set at the speculative limit levels defined in rule 150.2, 17 CFR 150.2 (1991). Merchants and dealers in cotton must file reports at the lower levels specified in 17 CFR 15.03. This lower level for cotton is to ensure adequate coverage of call sales and purchases on the "Cotton on Call" report. The above classes of reportable traders file cash position reports on a weekly basis. The cash position information provided on the series 04 reports informs the Commission of a traders' level of activity in the cash market with respect to stocks of the commodity on hand and fixed-price purchases and sales. This level of activity on the long (or short) side of the market provides a maximum for the quantity of long (short) futures contracts held by a trader which could be considered as hedging under the appropriate sections of the Commission's hedging definition.[3] If the level of cash activity reported by the trader appears not to justify futures positions which exceed speculation limits after adjusting such positions for cash offsets, the Commission uses its authority under § 18.05 of the regulations to more thoroughly explore the matter.[4] The Commission has reviewed its requirements under Part 19 with respect to the burden imposed on traders filing weekly series 04 reports and to determine if reports filed on a less frequent basis provide adequate information for surveillance purposes.

Reporting Burdens—In the course of obtaining reports, Commission staff questioned traders concerning the amount of time required to gather information, fill out required reports and transmit the reports to the Commission. Nineteen traders filing 204 reports and 10 traders filing 304 reports were queried.[5] This included ten of the largest traders filing 204 reports and one of the largest filing 304 reports.[6] About 50 percent of the above firms reported that it required 30 minutes or less per week to file the reports specified in Part 19. For the remaining traders, however the time varied widely, ranging from 1 hour to about 11 hours to complete the report.[7] Those traders that needed the most time are those with multiple operating divisions and/or affiliated companies. Such traders must gather and consolidate the information from all divisions or affiliated companies and either omit or separately report intra-company purchases and sales, adding substantially to the reporting burden.[8] It is of interest to note that during 1991 the futures positions of these very large firms were at all times substantially below their reported cash market activity. In corn, for example, the maximum long or short futures positions held by 13 of the 20 largest traders during 1991 never exceeded the minimum offsetting cash position reported on the Form 204 over the same time period.[9] This indicates that, at least for these 13 traders, weekly reporting was unnecessary for monitoring compliance with speculative position limits.

Frequency of Reporting—The Commission currently obtains reports on a weekly basis to ensure that the level of commercial traders' futures positions are commensurate with positions held in the cash market. As noted above, for some very large commercial traders an annual report may be sufficient given the magnitude of their cash operations relative to their use of the futures markets. However, this is not the case for the majority of persons from whom the Commission receives series 04 reports. For these traders, the data indicate a wide range of levels over which their cash and futures positions vary during a year. This suggests that reporting on a more frequent basis than annually may be desirable for surveillance purposes. Results of the Commission's analysis of data indicate that cash position reports received on a monthly basis would provide the Commission with information concerning the level of traders' cash market activity which does not materially differ from the information it currently receives on weekly reports. Moreover, if for any reason the Commission requires cash information more frequently for a particular trader, it has the authority under rule 19.00(a)(3) to request such information. Monthly reporting of cash position information would reduce by about 77 percent the

[1] Among other things, the Commission enumerates as bona fide hedges those short futures positions that do not exceed the quantities of the commodity owned and the quantities of fixed-price purchases of the commodity and those long futures positions that do not exceed the quantities of fixed-priced sales of the commodity. 17 CFR 1.3(z)(1991).

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

[3] In particular, see 17 CFR 1.3(z)(2)(i)(A), (2)(ii)(A) and (B), and (iv) (1991).

[4] Section 18.05 of the regulations requires large futures traders to keep books and records of all positions and transactions in a cash commodity that the trader hedges in futures and upon request furnish to the Commission pertinent information concerning such positions and transactions, 17 CFR 18.05 (1991).

[5] On average, 88 traders filed 204 reports and 59 traders filed 304 reports each week during 1991.

[6] The traders were large relative to others in terms of the level of cash market activity they normally report.

[7] As noted below, the requirements under part 19 of the regulations are part of an information collection approved by the Office of Management and Budget and assigned OMB control number 3038-0009. The time estimates provided by the 20 traders yield an average response time of 1 hour per report. This is the time estimate used by the Commission in estimating annual reporting burdens for this portion of the information collection.

[8] This applies to companies affiliated through ownership i.e., a parent/subsidiary relationship. Speculative position limits apply to all futures positions owned or controlled by a trader and exemptions therefore would also apply on an ownership basis. If affiliated companies are considered a single firm then intra-company purchases and sales are not considered risk reducing and therefore generally are omitted from series 04 reports. Although some affiliated companies report separately they still must adjust their cash positions for intra-company purchases and sales.

[9] Traders were ranked on the basis of their largest reported long or short cash position.

current annual reporting burden on traders.

In view of the above the Commission is proposing to amend Commission rule 19.10, to require that series 04 reports be routinely filed only as of the last Friday of each month. In proposing this amendment, the Commission is mindful that adoption of this change will reduce publication of the Cotton on Call from a weekly to a monthly basis. The Commission is interested in specific comment from users of this report concerning the nature of the impact this change may cause.

II. Related Matters

A. The Regulatory Flexibility Act

The Regulatory Flexibility Act (FRA) requires that agencies, in proposing rules, consider the impact of those rules on small businesses. These amendments affect large traders. The Commission has defined "small entities" as used by the Commission in evaluating the impact of its rule in accordance with the RFA. 47 FR 18618–18621 (April 30, 1992). In that statement, the Commission concluded that large traders are not considered to be small entities for purposes of the RFA. Large traders report only if carrying or holding reportable, *i.e.* large, positions. Moreover, these proposed rules lessen an existing burden on large traders. Pursuant to section 3(a) of the RFA (5 U.S.C. 605(b)), the Chairman, on behalf of the Commission, certifies that the proposed rules would not have a significant economic impact on a substantial number of small entities. The Commission invites comments from any firm which believes these rules will have a significant economic impact upon its operations.

B. Paperwork Reduction Act

The Paperwork Reduction Act of 1980 (PRA), 44 U.S.C. 3501 *et seq.*, imposes certain requirements on Federal agencies (including the Commission) in connection with their conducting or sponsoring any collection of information as defined by the PRA. In compliance with the PRA, the Commission has submitted this rule in proposed form and its associated information collection requirements to the Office of Management and Budget. The Office of Management and Budget approved the collection of information associated with this rule on May 13, 1992 and assigned OMB control number 3038–0009 to the rule. The burden associated with this entire collection, including this amended rule, is as follows:

Average Burden Hours Per Response.....0.1587
Number of Respondents.....3709
Frequency of Response.....18.49

Persons wishing to comment on the information which would be required by these rules should contact Gary Waxman, Office of Management and Budget, room 3228, NEOB, Washington, DC 20503, (202) 395–7304. Copies of the information collection submission to OMB are available from Joe F. Mink, CFTC Clearance Officer, 2033 K Street, NW., Washington, DC 20581, (202) 254–3310.

List of Subjects in 17 CFR Part 19

Brokers, Commodity Futures, Reporting and recordkeeping requirements.

In consideration of the foregoing, and pursuant to the authority contained in the Act and, in particular, sections 4g, 4i, 5 and 8a of the Act, 7 U.S.C. 6g, 6i, 7 and 12a (1990), the Commission hereby amends part 19 of chapter I of title 17 of the Code of Federal Regulations as follows:

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

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

Authority: 7 U.S.C. 6(g)(1), 6i and 12a(5).

2. Section 19.10 is proposed to be amended by revising the introductory text to read as follows:

§ 19.10 Time and place of filing reports.

Reports are due monthly as of the close of business on the last Friday of the month. Except for reports filed in response to special calls made under § 19.00(a)(3), each report shall be filed at the appropriate Commission office specified in paragraph (a) or (b) of this section not later than the second business day following the date of the report in the case of the 304 report and not later than the third business day following the date of the report in the case of the 204 report. Reports may be transmitted by facsimile or, alternatively, information on the form may be reported to the appropriate Commission office by telephone and the report mailed to the same office, postmarked not later than midnight of its due date.

* * * * *

Issued in Washington, DC, this 16th day of June, 1992, by the Commission.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 92–14449 Filed 6–19–92; 8:45 am]

BILLING CODE 6351-01-M

DEPARTMENT OF STATE

Bureau of Politico-Military Affairs

22 CFR Parts 120, 122, 123, 124, 125, 126, 127, and 130

[Public Notice 1639]

Open Forum Concerning International Traffic in Arms Regulations Proposed Amendments

AGENCY: Department of State.

ACTION: Notice of open forum on proposed rule.

SUMMARY: The Office of Defense Trade Controls will be holding an open forum to hear questions and comments from the public on the subject of the proposed amendments to the International Traffic in Arms Regulations (22 CFR parts 120–130).

DATES: The Forum will be held on June 29, 1992.

ADDRESSES: The forum will be held in the Dean Acheson Auditorium (23rd St. entrance) of the U.S. Department of State Building, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Robert Huffman, Office of Defense Trade Controls, U.S. Department of State, SA–6, room 200, Washington, DC 20520–7815 Phone: (703) 875–5675 Fax: (703) 875–5663.

SUPPLEMENTARY INFORMATION: The Office of Defense Trade Controls will hold an open forum on June 29, 1992 to discuss proposed amendments of the International Traffic in Arms Regulations (22 CFR parts 120–130). The purpose of the forum is to discuss and receive additional public comment on the proposed amendments as published in the **Federal Register**, May 7, 1992 (57 FR 19666).

This open forum will take place in the Dean Acheson auditorium (23rd Street entrance) of the U.S. Department of State building from 2:30 p.m. to 5 p.m. The forum is open to the public as space allows and will consist of opening remarks from the Office of Defense Trade Controls, followed by remarks and questions from those in attendance.

Since access to the Department of State is controlled, all wishing to attend must provide their name, date of birth, and social security number to Robert Huffman, Office of Defense Trade Controls, at (703) 875–5675 (fax: 703–875–5663) prior to 5:00 PM, Friday June 26. To enter the Department of State the day of the meeting, all attendees need to come to the 23rd St. entrance and must show a valid photo ID.

Dated: June 17, 1992.

James A. Lewis,

Deputy Director, Center of Defense Trade, Bureau of Politico-Military Affairs.

[FR Doc. 92-14675 Filed 6-19-92; 8:45 am]

BILLING CODE 4710-25-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Public and Indian Housing

24 CFR Parts 905 and 990

[Docket No. R-91-1552; FR-2784-N-03]

RIN 2577-AA84

Low-Income Public and Indian Housing—Vacancy Rule

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Reopening of comment period.

SUMMARY: The Department is reopening for 30 days the comment period announced in its proposed rule published at 56 FR 45814 (September 6, 1991). The original comment period expired on November 5, 1991. However, on October 28, 1991, Congress prohibited the Department from using funds appropriated for FY 1992 to implement the proposed rule or any similar rule. In order to ensure that this action by Congress did not dissuade potential commenters on the proposed rule from preparing and submitting their comments for eventual consideration, the Department is announcing this reopening of the comment period. All comments submitted before this reopening announcement are deemed timely submissions and will be considered at the time a final rule is developed.

DATES: Comments must be received by July 22, 1992.

ADDRESSES: Interested persons are invited to submit comments regarding this rule to the Rules Docket Clerk, Office of General Counsel, room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410-0500.

Communications should refer to the above docket number and title.

An original and four copies of comments should be submitted. Facsimile (FAX) comments are *not* acceptable. A copy of each communication submitted will be available for public inspection and copying between 7:30 a.m. and 5:30 p.m. weekdays at the above address.

FOR FURTHER INFORMATION CONTACT: John T. Comerford, Director, Financial Management Division, Public and Indian Housing, room 4212, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410; telephone (202) 708-1872, or (202) 708-0850 (TDD). (These telephone numbers are not toll-free.)

SUPPLEMENTARY INFORMATION: This notice is being issued to reopen the period for comments on the proposed rule concerning Low-Income Public and Indian Housing—Vacancy Rule, published at 56 FR 45814, September 6, 1991. The proposed rule would establish new conditions under which a Public Housing Agency (PHA) or Indian Housing Authority (IHA) could include vacant units in its computation of eligibility under the Performance Funding System. Commenters will now have until July 22, 1992 to submit any comments on this proposed rule.

All comments that have already been received by the Department as of the date of publication of this reopening notice will continue to be part of the docket for this proposed rule. Those comments, and any new comments received before the expiration of the extended comment period, will be considered by the Department in developing a final rule.

The original comment period for this proposed rule expired on November 5, 1991. However, in the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act for FY 1992 (Pub. L. 102-139, approved October 28, 1991), Congress prohibited the Department from using funds appropriated for FY 1992 to implement the proposed rule or any similar rule. See 105 Stat. 757.

Although numerous comments were sent to and received by the Department after October 28, 1991, the Department is concerned that other potential commenters may have suspended preparation of their comments based on the congressional action. In order to ensure that this action by Congress did not dissuade potential commenters from preparing and submitting their comments for eventual consideration, the Department is reopening the comment period for the proposed rule.

On March 20, 1992, President Bush transmitted to Congress a request for appropriations language that would repeal the prohibition on using funds appropriated for FY 1992 to implement the proposed rule. If Congress accepts the repeal language, the Department expects to publish a final rule during FY 1992, to become effective by October 1, 1992. If there is no congressional action on the request for repeal language, the Department intends to publish a final rule after October 1, 1992. The final rule would be responsive to public comments already on record and those received as a result of this reopening of the comment period. In this case the final rule would first be applicable to any PHA or IHA whose fiscal year begins on January 1, 1993.

Authority: 42 U.S.C. 1437g, 1437aa, 1437bb, 1437cc, 1437ee, and 3535(d); 25 U.S.C. 450e(b); 42 U.S.C. 3535(d).

Dated: June 16, 1992.

Joseph G. Schiff,

Assistant Secretary for Public and Indian Housing.

[FR Doc. 92-14647 Filed 6-19-92; 8:45 am]

BILLING CODE 4210-33-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[INTL-0372-88; INTL-0401-88]

RIN 1545-AM15, 1545-AL80

Intercompany Transfer Pricing and Cost Sharing Regulations Under Section 482; Correction

AGENCY: Internal Revenue Service, Treasury.

ACTION: Correction to notice of proposed rulemaking.

SUMMARY: This document contains corrections to the notice of proposed rulemaking (INTL-0372-88; INTL-0401-88), which was published in the **Federal Register** Thursday, January 30, 1992 (57 FR 3571). This document contains proposed Income Tax Regulations relating to intercompany transfer pricing and cost sharing under section 482 of the Internal Revenue Code.

FOR FURTHER INFORMATION CONTACT: Howard Berger, with respect to all provisions except cost sharing, and Lisa Sams, with respect to cost sharing provisions. Howard Berger, (202) 377-9059, Lisa Sams (202) 874-1490 (not toll-free calls).

SUPPLEMENTARY INFORMATION:

Background

The proposed regulations that are the subject of these corrections contain proposed amendments to the Income Tax Regulations (26 CFR part 1) under section 482 of the Internal Revenue Code.

Need for Correction

As published, the proposed regulations (INTL-0372-88; INTL-0401-88) contain errors which may prove to be misleading and are in need of clarification.

Correction of Publication

Accordingly, the publication of the proposed regulations (INTL-0372-88; INTL-0401-88), which was the subject of FR Doc. 92-1941, is corrected as follows:

1. On page 3571, column 1, in the heading, the RIN "RIN 1544-AM15, 1545-AL80" is corrected to read "RIN 1545-AM15, 1545-AL80".

§ 1.482-2 [Corrected]

2. On page 3579, column 2, § 1.482-2 (d)(1)(ii)(D)(*3*), line 2, the language, "which is not members of a group." is corrected to read "which is not a member of a group.".

3. On page 3581, column 2, § 1.482-2(d)(3)(vi), *Example 3*, is corrected by removing the first three sentences and adding four sentences in their place to read as follows:

Example 3. The facts are the same as in *Example 1*, except that the uncontrolled transfer to UF includes contractual terms that require USCo to furnish relatively modest technical assistance to UF (including information concerning marketing and packaging of the accounting software). The technical assistance that can be demanded by UF will have little effect on the value of the accounting software. The UF agreement provides that USCo will be reimbursed for its costs attributable to any technical assistance it provides. The RB agreement does not contain a similar provision. * * *

4. On page 3584, column 3, § 1.482-2(d)(6)(ii)(C)(*4*), first line of that paragraph, the language "The tested party's operating" is corrected to read "The tested party's reported operating".

5. On page 3586, column 3, § 1.482-2(f)(1), eleventh line from the bottom of the paragraph, the language "of intangible property. Paragraph (f)(3)" is corrected to read "of tangible and intangible property. Paragraph (f)(3)".

6. On page 3589, column 3, § 1.482-2 (f)(6)(iv)(C), *Example 2*, line 5, the language "uncontrolled taxpayer B is 1/3, and the" is corrected to read "uncontrolled taxpayer B is 4/3, and the".

7. On page 3589, column 3, § 1.482-2 (f)(6)(iv)(C), *Example 2*, the last line of the paragraph, the language "is $53 (1/3 × $160)." is corrected to read "is $53 ((4/3 × $160)-$160).".

8. On page 3590, column 2, 1.482-2 (f)(8)(iii), the last line of the paragraph, the language "paragraph (f)(7)(ii) of this section; and" is corrected to read "paragraph (f)(6)(iii) of this section; and".

9. On page 3591, column 1, § 1.482-2 (f)(11), paragraph (ii) of *Example 1*, column 3 of the table under the column heading "Data from X ", the last two lines of the column, the numbers "525" and "400" are corrected to read "400" and "1100", respectively.

10. On page 3591, column 1, § 1.482-2 (f)(11), paragraph (iv) of *Example 1*, line 2, the language "indicators described in paragraph (f)(5) of" is corrected to read "indicators described in paragraph (f)(6) of".

11. On page 3591, column 1, § 1.482-2 (f)(11), paragraph (iv)(A), of *Example 1*, line 4, the language "income divided by $570 of assets). If CE had" is corrected to read "income divided by $440 of assets). If CE had".

12. On page 3591, column 1, § 1.482-2 (f)(11), paragraph (iv)(b) of *Example 1* is correctly designated as paragraph (iv)(B) of *Example 1*.

13. On page 3591, column 2, § 1.482-2 (f)(11), paragraph (iv)(B) of *Example 1*, as correctly designated, first and second lines of the column, the language "operating expenses), its gross income would have been $240, and its constructive" is corrected to read "operating expenses), its contructive".

14. On page 3591, column 2, § 1.482-2 (f)(11), paragraph (iv)(D) of *Example 1*, line 6, the language "CE and US Corp of 36.3% ([400 + 150]/" is corrected to read "CE and US Corp of 36.3% ([400 + 170]/".

15. On page 3591, column 2, § 1.482-2 (f)(11), paragraph (iv)(D) of *Example 1*, eleventh line from the bottom of the paragraph, the language "income of 59 (125 − .15 × 440) represents 16.9%" is corrected to read "income of 59 (125 − [.15 × 440]) represents 16.9%".

16. On page 3591, column 2, § 1.482-2 (f)(11), paragraph (iv)(D) of *Example 1*, eighth line from the bottom of the paragraph, the language "assets of 570 and X had earned 10% on its" is corrected to read "assets of 570 and US Corp had earned 10% on its".

17. On page 3591, column 2, § 1.482-2 (f)(11), paragraph (iv)(D) of *Example 1*, fifth line from bottom of the paragraph, the language "(570 − [.15 × 570] − [.10 × 1000]. If CE had" is corrected to read "(400 − [.15 × 570] + 170 − [.10 × 1000]. If CE had".

18. On page 3591, column 3, § 1.482-2 (f)(11), paragraph (ii) of *Example 2*, column 2 of the table under the column heading "Data from DE", last line in the column, the number "1,190" is corrected to read "480".

19. On page 3592, column 1, § 1.482-2 (f)(11), paragraph (iii) of *Example 2*, the first and third lines of the table at the top of the column are corrected and the table is republished to read as follows:

	PLI from DE (percent)	Operating income from CE
Return on assets	26.0	$148
Gross income to operating expenses	200.0	275
Operating income to sales	12.5	150

20. On page 3594, colum 1, § 1.482-2 (f)(11), paragraph (i) of *Example 6*, first line following the table, the language "Based on this data, MancuCo's ration of" is corrected to read "Based on this data, ManuCo's ratio of".

21. On page 3594, the second table on the page, § 1.482-2 (f)(ii), paragraph (iv) of *Example 6*, line "E" of that table is corrected to read as follows:

Unrelated company	OI/S (percent)	ManuCo OI	OI/A (percent)	ManuCo OI
* * *	*	*	*	*
E	8.6	2,580	8.5	2,125
* * *	*	*	*	*

22. On Page 3598, column 2, § 1.482-2 (g)(4)(ii)(E), paragraph (iii) of *Example 2*, line 10, the language "$100), and the ratio of the other participant's" is corrected to read "100 units), and the ratio of the other participant's".

23. On page 3598, column 2, § 1.482-2 (g)(4)(ii)(E), paragraph (iii) of *Example 2*, line 12, the language ".12 ($25/$215). To approximately equalize" is corrected to read ".12 ($25/215 units). To approximately equalize".

24. On page 3598, column 3, § 1.482-2 (g)(4)(ii)(E), the last three lines of paragraph (iii) of *Example 2*, the language "share payments to unit sales is .14 ($14/$100), and the other participants's ratio of cost share payments to unit sales is .14 ($31/$215)." is corrected to read "share payments to unit sales is .14 ($14/100 units), and the other participant's ratio of cost share payments is unit sales is .14 ($31/215 units).".

25. On page 3601, column 1, § 1.482-2 (g)(6)(ii)(A), third and fourth lines from top of the column, the language "Schedule M of Form 5471 or Schedule N of Form 5472 filed with respect to that" is corrected to read "Schedule M of Form 5471 or any attachment to Form 5472 filed with respect to that".

Dale D. Goode,

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

[FR Doc. 92-14259 Filed 6-19-92; 8:45 am]

BILLING CODE 4830-01-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 935

Ohio Permanent Regulatory Program; Revision of Administrative Rule

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Proposed rule.

SUMMARY: OSM is announcing the receipt of proposed Program Amendment Number 58 to the Ohio permanent regulatory program (hereinafter referred to as the Ohio program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The amendment is intended to make the Ohio program as effective as the corresponding Federal regulations. The amendment concerns the termination and possible reassertion of regulatory jurisdiction over all or part of a reclaimed coal mine following the release of performance bond.

This notice sets forth the times and locations that the Ohio program and proposed amendments to that program will be available for public inspection, the comment period during which interested persons may submit written comments on the proposed amendments, and the procedures that will be following regarding the public hearing, if one is requested.

DATES: Written comments must be received on or before 4 p.m. on July 22, 1992. If requested, a public hearing on the proposed amendments will be held at 1 p.m. on July 17, 1992. Requests to present oral testimony at the hearing must be received on or before 4 p.m. on July 7, 1992.

ADDRESSES: Written comments and requests to testify at the hearing should be mailed or hand-delivered to Mr. Richard J. Seibel, Director, Columbus Field Office, at the address listed below. Copies of the Ohio program, the proposed amendments, and all written comments received in response to this notice will be available for public review at the addresses listed below during normal business hours, Monday through Friday, excluding holidays. Each requester may receive, free of charge, one copy of the proposed amendments by contacting OSM's Columbus Field Office.

Office of Surface Mining Reclamation and Enforcement, Columbus Field Office, 2242 South Hamilton Road, room 202, Columbus, Ohio 43232, Telephone: (614) 866-0578.

Ohio Department of Natural Resources, Division of Reclamation, 1855 Fountain Square Court, Building H-3, Columbus, Ohio 43224, Telephone: (614) 265-6675.

FOR FURTHER INFORMATION CONTACT: Mr. Richard J. Seibel, Director, Columbus Field Office, (614) 866-0578.

SUPPLEMENTARY INFORMATION:

I. Background

On August 16, 1982, the Secretary of the Interior conditionally approved the Ohio program. Information on the general background of the Ohio program submission, including the Secretary's findings, the disposition of comments, and a detailed explanation of the conditions of approval of the Ohio program, can be found in the August 10, 1982 **Federal Register** (47 FR 34688). Subsequent actions concerning the conditions of approval and program amendments are identified at 30 CFR 935.11, 935.12, 935.15, and 935.16.

II. Discussion of the Proposed Amendments

By letter dated November 17, 1989 (Administrative Record No. OH-1240), the Director of OSM notified Ohio of a number of Federal regulations promulgated between June 9, 1988 and July 30, 1989 for which OSM has determined that the corresponding Ohio rules were now less effective than the new Federal counterparts. One new Federal rule at 30 CFR 700.11(d) concerned the termination of regulatory jurisdiction over reclaimed mines.

In response to the OSM notification, Ohio submitted proposed Program Amendment No. 43 by letter dated January 16, 1990 (Administrative Record No. OH-1265). In part, this amendment proposed the addition of two new paragraphs at OAC 1501:13-1-01 (D) (1) and (2) to establish corresponding State provision for the termination and possible reassertion of Ohio's regulatory jurisdiction over reclaimed mines.

On January 7, 1991, OSM sent its comments to Ohio on Program Amendment Number 43 (Administrative Record No. OH-1430). In those comments, OSM noted that the U.S. District Court for the District of Columbia remanded the counterpart Federal rule at 30 CFR 700.11(d) concerning termination of jurisdiction as contrary to SMCRA (*National Wildlife Federation* v. *Lujan*, Nos. 88-2416, 88-3345, 88-3586, 88-3635, 89-0039, 89-0136, and 89-0141 (D.D.C. August 30, 1990). OSM notified Ohio that OSM could not approve Ohio's proposed new rules at OAC 1501:13-1-01 (D) (1) and (2) because those provisions, as did the remanded counterpart Federal regulation at 30 CFR 700.11(d), permitted Ohio to conclude its role in enforcing SMCRA at the site of a surface mining activity when the operator has performed all of the required duties to reclaim the site. This proposed State provision would be contrary to the court's interpretation of SMCRA.

In response to OSM's letter, Ohio submitted Revised Program Amendment Number 43 on February 12, 1991 (Administrative Record No. OH-1454). In this revised amendment, Ohio deleted the previous proposed new rules on termination of jurisdiction.

Subsequently, the Secretary of the Interior appealed the U.S. District Court's suspension of the Federal rule. On December 10, 1991, the U.S. Court of Appeals for the District of Columbia upheld the remanded Federal rule at 30 CFR 700.11(d). On April 10, 1992 (57 FR 12461), OSM published the reinstatement of the remanded Federal rule as promulgated on November 2, 1988 (53 FR 44356). This reinstated rule became effective on May 11, 1992.

By letter dated May 12, 1992 (Administrative Record No. OH-1699), Ohio submitted proposed Program Amendment Number 58. This amendment resubmits the previous proposed State provisions for the termination and possible reassertion of regulatory jurisdiction over all or part of a reclaimed coal mine following the release of performance bond. Ohio is again proposing to add new paragraphs (D)(1) and (2) at OAC 1501:13-1-01. The new paragraphs would read:

(D) Termination of Jurisdiction

(1) The Chief may terminate jurisdiction under chapter 1513. of the Revised Code over the reclaimed site of a completed coal mining and reclamation operation, or increment thereof, upon the Chief's final decision in accordance with chapter 1501:13-7 of the Administrative Code to release the performance bond fully.

(2) Following a termination under paragraph (D)(1) of this rule, the Chief shall reassert jurisdiction under chapter 1513. of the Revised Code over a site if it is demonstrated that the bond release was based on fraud, collusion, or misrepresentation of a material fact.

III. Public Comment Procedures

In accordance with the provisions of 30 CFR 732.17(h), OSM is now seeking comment on whether the amendments proposed by Ohio satisfy the applicable approval criteria of 30 CFR 732.15. If the amendments are deemed adequate, they will become part of the Ohio program.

Written Comments

Written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of the commenter's recommendations. Comments received after the time indicated under "**DATES**" or at locations other than the Columbus Field Office will not necessarily be considered in the final rulemaking or included in the Administrative Record.

Public Hearing

Persons wishing to comment at the public hearing should contact the person listed under "**FOR FURTHER INFORMATION CONTACT**" by 4 p.m. on July 7, 1992. If no one requests an opportunity to comment at a public hearing, the hearing will not be held.

Filing of a written statement at the time of the hearing is requested as it will greatly assist the transcriber. Submission of written statements in advance of the hearing will allow OSM officials to prepare responses and appropriate questions.

The public hearing will continue on the specified date until all persons scheduled to comment have been heard. Persons in the audience ho have not be scheduled to comment and who wish to do so will be heard following those scheduled. The hearing will end after all persons scheduled to comment and persons present in the audience who wish to comment have been heard.

Public Meeting

If only one person requests an opportunity to comment at a hearing, a public meeting, rather than a public hearing, may be held. Persons wishing to meet with OSM representatives to discuss the proposed anmendments may request a meeting at the Columbus Field Ofice by contacting the person listed under "**FOR FURTHER INFORMATION CONTACT.**" All such meetings shall be open to the public and, if possible, notices of the meetings will be posted at the locations listed under "**ADDRESSES.**" A written summary of each pubic meeting will be made a part of the Administrative Record.

Executive Order 12778

This rule has been reviewed under the principles set forth in section 2 of E.O. 12778 (56 FR 55195, October 25, 1991) on Civil Justice Reform. The Department of the Interior has determined, to the extent allowed by law, that this rule meets the applicable standards of Section 2(a) and 2(b) of E.O. 12778. Under SMCRA Section 405 and 30 CFR 884 and Section 503(a) and 30 CFR 732.15 and 732.17(h)(10), the agency decision on State program submittals must be based solely on a determination of whether the submittal is consistent with SMCRA and the Federal regulations. The only decision allowed under the law is approval, disapproval, or conditional approval of State program amendments.

List of Subjects in 30 CFR Part 935

Intergovernmental relations, Surface mining, Underground mining.

Dated May 22, 1992.

Jeffrey D. Jarrett,

Acting Assistant Director, Eastern Support Center.

[FR Doc. 92-14575 Filed 6-19-92 8:45 am]

BILLING CODE 4310-05-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CDG8-92-16]

Drawbridge Operation Regulations; Lower Grand River, Louisiana

AGENCY: Coast Guard, DOT.

ACTION: Proposed rule.

SUMMARY: At the request of the Louisiana Department of Transportation and Development (LDTOD), the Coast Guard is considering a change to the regulation governing the operation of the pontoon bridge on LA 75, across the Lower Grand River (Intracoastal Waterway, Morgan City to Port Allen, Alternate Route), mile 38.4, at Bayou Sorrel, Iberville Parish, Louisiana. The requested regulation would permit the draw to remain closed to navigation from 6 a.m. to 7:30 a.m. and from 3 p.m. to 4:30 p.m. on weekdays only, except holidays, and only during the months when local schools are in session. The primary purpose of this regulation is to provide school bus traffic undelayed use of the bridge during the school year. Presently, the draw opens on signal at all times.

This action will accommodate the needs of local school bus traffic and should still provide for the reasonable needs of navigation.

DATES: Comments must be received on or before August 6, 1992.

ADDRESSES: Comments should be mailed to Commander (ob), Eighth Coast Guard District, 501 Magazine Street, New Orleans, Louisiana 70130-3396. The Comments and other materials referenced in this notice will be available for inspection and copying in room 1313 at this address. Normal office hours are between 8 a.m. and 3:30 p.m., Monday through Friday, except holidays. Comments may also be hand-delivered to this address.

FOR FURTHER INFORMATION CONTACT: Mr. John Wachter, Bridge Administration Branch, at the address given above, telephone (504) 589-2965.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this proposed rulemaking by submitting written views, comments, data or arguments. Persons submitting comments should include their names and addresses, identify the bridge, and give reasons for concurrence with or any recommended change in the proposal. Persons desiring acknowledgment that their comments have been received should enclose a stamped, self-addressed postcard or envelope.

The Commander, Eighth Coast Guard District, will evaluate all communications received and determine a course of final action on this proposal. The proposed regulation may be changed in the light of comments received.

Drafting Information

The drafters of this regulation are Mr. John Wachter, project officer, and LT J.A. Wilson, project attorney.

Discussion of Proposed Regulation

Vertical clearance of the draw in the closed position is non-existent because it is a pontoon bridge. Navigation through the bridge consists of tugs with tows, commercial fishing vessels and recreational craft. Data submitted by LDOTD show that from 6 a.m. to 7:30 a.m. and from 3 p.m. to 4:30 p.m., Monday through Friday, about 1.5 vessels pass the bridge daily during each proposed regulated period. Originally, the bridge owner had requested a longer closure period. After studying the provided school bus traffic data, the Coast Guard felt that the buses should be able to tighten their scheduled runs enough to fit into each of the one-and-one-half hour time frames. The bridge owner concurred after recognizing the greater inconvenience that a longer closure would impose upon the mariner. Thus, the shortened proposed closure periods were agreed upon. The Coast Guard feels that vessel operators can easily become accustomed to the scheduled closures and will be able to adjust their arrival at the bridge to avoid the closure periods with little or no inconvenience or additional expense to themselves. This new annual regulation would become effective on or about August 15 (first

day of the school year), and would remain in effect through about June 5 (last day of the school year). During the summer months the regulation would not be in effect. The proposed regulation will be of great benefit to the local schools, the school bus operators, the children that ride the buses to and from the schools, and should have no significant impact on navigation.

Federalism Implications

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

Economic Assessment and Certification

This proposed regulation is considered to be non-major under Executive Order 12291 on Federal Regulation and nonsignificant under Department of Transportation regulatory policies and procedures (44 FR 11034: February 26, 1979).

The economic impact of this proposal is expected to be so minimal that a full regulatory evaluation is unnecessary. The basis for this conclusion is that during the proposed regulated periods there will be very little inconvenience to vessels using the waterway. In addition, mariners requiring the bridge openings are repeat users of the waterway and scheduling their arrivals to avoid the proposed regulated periods should involve little or on additional expense to them. Since the economic impact of this proposal is expected to be minimal, the Coast Guard certifies that, if adopted, it will not have a significant economic impact on a substantial number of small entities.

Environmental Impact

This proposed rulemaking has been thoroughly reviewed by the Coast Guard and it has been determined to be categorically excluded from further environmental documentation in accordance with section 2.B.2.g.5 of Commandant Instruction M16475.1B. A Categorical Exclusion Determination statement has been prepared and placed in the rulemaking document.

List of Subjects in 33 CFR Part 117

Bridges.

Proposed Regulations

In consideration of the foregoing, the Coast Guard proposes to amend part 117 of title 33, Code of Federal Regulations, as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 49 CFR 1.46; 33 CFR 1.05–1(g).

2. Section 117.478 is revised to read as follows:

§ 117.478 Lower Grand River (Intracoastal Waterway).

(a) The draw of the LA 75 bridge, mile 38.4 (Alternate Route) at Bayou Sorrel, shall open on signal; except that, from about 15 August to about 5 June (the school year) the draw need not be opened from 6 a.m. to 7:30 a.m. and from 3 p.m. to 4:30 p.m., Monday through Friday except holidays. The draw shall open on signal at any time for an emergency aboard a vessel.

(b) The draw of the S997 bridge, mile 41.5 (Landside Route) at Pigeon, shall open on signal; except, that, from 10 p.m. to 6 a.m., the draw shall open on signal if at least four hours notice is given. During the advanced notice period, the draw shall open on less than four hours notice for an emergency and shall open on demand should a temporary surge in waterway traffic occur.

Dated: June 1, 1992.

J. M. Loy,

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

[FR Doc. 92–14612 Filed 6–19–92; 8:45 am]

BILLING CODE 4910–14–M

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33 CFR Part 117

[CGD7–92–18]

Drawbridge Operation Regulations; Gulf Intracoastal Waterway, FL

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: At the request of the Florida Department of Transportation (FDOT), the Coast Guard proposes to limit the number of openings of the Sunshine Skyway Drawbridge over the Gulf Intracoastal Waterway, mile 110.5, at Maximo Point, St. Petersburg, Pinellas County, Florida during certain periods. This proposal is being made to reduce back-to-back openings during construction of a replacement bridge, while still meeting the reasonable needs of navigation.

DATES: Comments must be received on or before August 6, 1992.

ADDRESSES: Comments may be mailed to Commander (oan), Seventh Coast Guard District, 909 SE. 1st Avenue, Miami FL 33131–3050, or may be delivered to Room 406 at the above address between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays. For information concerning comments the telephone number is 305–536–4103.

The Commander, Seventh Coast Guard District maintains the public docket for this rulemaking. Comments will become part of this docket and will be available for inspection or copying at the above address.

FOR FURTHER INFORMATION CONTACT: Ian MacCartney, Project Manager at (305) 536–4103.

SUPPLEMENTARY INFORMATION:

Request for Comments

The Coast Guard encouraged interested persons to participate in this rulemaking by submitting written data, views, or arguments. Persons submitting comments should include their names and addresses, identify this rulemaking (CGD7–92–18) and the specific section of this proposal to which each comment applies, and give the reason for each comment. Each person wanting acknowledgment of receipt of comments should enclose a stamped, self-addressed postcard or envelope.

The Coast Guard will consider all comments received during the comment period. It may change this proposal in view of comments.

The Coast Guard plans no public hearing. Persons may request a public hearing by writing to Mr. Ian MacCartney at the address under "**ADDRESSES**". If it determines that the opportunity for oral presentations will aid this rulemaking, the Coast Guard will hold a public hearing at a time and place announced by a later notice in the **Federal Register**.

Drafting Information

The principal persons involved in drafting this document are Ian MacCartney, Project Manager, and LT. J. M. Losego, Project Counsel.

Background and Purpose

This drawbridge presently opens on signal. FDOT has requested that the bridge be allowed to open only on the hour and half-hour between 7 a.m. and 8 p.m. daily in order to eliminate back-to-back openings which contribute to traffic congestion. A Coast Guard evaluation of the proposal concluded that highway traffic congestion, brought on by construction of an adjacent replacement bridge with a reduction in available highway traffic lanes, is being exacerbated by frequent bridge openings.

Discussion of Proposed Amendments

The Coast Guard is presently testing the proposed 30 minute schedule, between 7 a.m. and 8 p.m. daily. Initial results have indicated traffic backups have been significantly reduced. This revised schedule should eliminate back-to-back openings and help to reduce traffic delays without unreasonably impacting navigation.

Regulatory Evaluation

This proposal is not major under Executive Order 12291 and not significant under the department of Transportation regulatory policies and procedures (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this proposal to be so minimal that a full regulatory evaluation is unnecessary. We conclude this because the rule exempts tugs with tows.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.), the Coast Guard must consider whether this proposal will have a significant economic impact on a substantial number of small entities. "Small entities" include independently owned and operated small businesses that are not dominant in their field and that otherwise qualify as "small business concerns" under section 3 of the Small Business Act (15 U.S.C. 632). Since tugs with tows are exempt from this proposal, the economic impact is expected to be so minimal the Coast Guard certifies under 5 U.S.C. 605(b) that this proposal, if adopted, will not have a significant impact on a substantial number of small entities.

Collection of Information

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

Federalism

The Coast Guard has analyzed this proposal in accordance with the principles and criteria contained in Executive Order 12612, and has determined that this proposal does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environment

The Coast Guard considered the environmental impact of this proposal and concluded that, under section 2.b.2.g(5) of Commandant Instruction M16475.1B, promulgation of operating requirements or procedures for drawbridges is categorically excluded from further environmental documentation. A Categorical Exclusion Determination is available in the docket for inspection or copying where indicated under "**ADDRESSES**".

List of Subjects in 33 CFR Part 117

Bridges.

For the reasons set out in the preamble, the Coast Guard proposes to amend 33 CFR part 117 as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 49 CFR 1.46; 33 CFR 1.05-1(g).

2. In § 117.287, paragraph (d)(3) is redesignated as (d)(4) and a new paragraph (d)(3) is added to read as follows:

§ 117.287 Gulf Intracoastal Waterway.

* * * * *

(3) The draw of the Sunshine Skyway Structure "A" drawbridge, mile 110.5, at Maximo Point, shall open on signal; except that from 7 a.m. to 8 p.m., the draw need open only on the hour and half hour.

* * * * *

Dated: June 8, 1992.

R.E. Kramek,

Rear Admiral, U.S. Coast Guard Seventh Coast Guard District.

[FR Doc. 92-14616 Filed 6-19-92; 8:45 am]

BILLING CODE 4910-14-M

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33 CFR Part 165

[CGD1 92-056]

Safety Zone: East Passage, Narragansett Bay, RI

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to establish a temporary moving safety zone around the band of swimmers involved in the 16th annual Swim the Bay, on August 22, 1992, between 9 a.m. and 11 a.m. This zone is needed to protect the swimmers, as well as the rowboats escorting the swimmers, from personal injury or damage due to collision that may result if vessel traffic were allowed to transit the East Passage of Narragansett Bay, in the vicinity of the swim, while the event is in progress.

DATES: Comments must be received on or before July 22, 1992.

ADDRESSES: Comments should be mailed to the Commanding Officer, Marine Safety Office Providence, John O'Pastore Federal Building, Providence, Rhode Island 02903-1790, or may be delivered to room 217 at the above address between 7:30 a.m. and 4 p.m., Monday through Friday, except federal holidays. The telephone number is (401) 528-5335. The Marine Safety Office Providence maintains the public docket for this rulemaking. Comments will become part of this docket and will be available for inspection or copying at room 217, Marine Safety Office Providence.

FOR FURTHER INFORMATION CONTACT: LTJG Tina Burke at (401) 528-5335.

SUPPLEMENTARY INFORMATION:

Request for Comments

The Coast Guard encourages interested persons to participate in this rulemaking by submitting written data, views, or arguments. Persons submitting comments should include their name and address, identify this rulemaking (CGD1 92-056) and the specific section of this proposal to which each comment applies, and give a reason for each comment. Persons wanting acknowledgement of receipt of comments should enclose a stamped, self addressed postcard or envelope.

The Coast Guard will consider all comments received during the comment period. It may change this proposal in view of the comments.

The Coast Guard plans no public hearing. Persons may request a public hearing by writing to the Marine Safety Office at the address under "**ADDRESSES**." If it determines that the opportunity for oral presentations will aid this rulemaking, the Coast Guard will hold a public hearing at a time and place announced by a later notice in the **Federal Register**.

Drafting Information

The principal persons involved in drafting this document are LTJG T. Burke, Project Manager, and LCDR J. Astley, Project Counsel, First Coast Guard District Legal Office.

Background and Purpose

On August 22, 1992, the Save the Bay organization will be sponsoring the 16th annual "Swim the Bay." For this event, approximately 130 people will swim across the East Passage of Narragansett Bay, from the Coaster's Harbor Island Beach, Newport, to Jamestown Island in the vicinity of Potter's Cove. Each swimmer will be escorted by a rowboat with a spotter onboard, and orange

pylons will be placed along the swim route, outside of the main ship channel, to facilitate swimming/rowing a straight course. The swim will take place between 9 a.m. and 11 a.m. on August 22, 1992. All swimmers will be limited to these two hours to complete the swim. In the event of fog or lightning, the swim will be postponed until August 23, 1992, during the same time period. Approximately 10 spectator craft are expected to attend.

Swim the Bay is held annually to celebrate the beauty and recreational value of Narragansett Bay, as well as to raise funds to support the cleanliness of the Bay. The sponsor notified the Coast Guard of the event on May 22, 1992. On June 5, 1992, a Marine Safety Information Bulletin was drafted and distributed to users of the Bay expected to be impacted by this event.

The Coast Guard proposes to establish a temporary moving safety zone around the band of swimmers and escort craft involved in Swim the Bay. The zone will encompass a three hundred yard radius around the swimmers participating in the event and the associated craft as they cross the East Passage from Coaster's Harbor Island Beach (position 41–31N, 071–19.8W) to Potter's Cove (position 41–31N, 071–22W). The safety zone will be in effect between the hours of 9 a.m. and 11 a.m. on August 22, 1992. If the event is postponed due to fog or lightning, the same safety zone will be established on August 23, 1992, during the same time period. This safety zone is necessary to protect the participants and associated craft involved in Swim the Bay from inherent dangers (personal injury or property damage due to collision) associated with vessels transiting the area of such an event.

Regulatory Evaluation

This proposal is not major under Executive Order 12291 and not significant under the Department of Transportation Regulatory Policies and Procedures (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this proposal to be so minimal that a Regulatory Evaluation is unnecessary. Although the proposed safety zone affects the main shipping channel through the East Passage of Narragansett Bay, the impact is expected to be minimal for several reasons. First, the large commercial vessel traffic interests that would normally use the affected waterway have been given 2½ months advance notice of the event and the pending safety zone/channel closure. This is more than sufficient time for these entities to schedule commercial ship transits around the safety zone time period. Second, the other interests to be affected, the recreational vessels, spectator craft, small passenger vessels, and perhaps fishing vessels, will not endure any undue hardship because they have an unlimited amount of alternate water, outside the limits of the safety zone, in which they may safely operate. Lastly, the impact of the proposed safety zone on any particular area of the waterway will be of limited duration due to the short time frame of the event and also due to the nature of a moving safety zone. Once the moving zone has passed, vessels desiring to use the channel will have the opportunity to transit.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.), the Coast Guard must consider whether this proposal will have a significant economic impact on a substantial number of small entities. "Small entities" include independently owned and operated small businesses that are not dominant in their field and that otherwise qualify as "small business concerns" under section 3 of the Small Business Act (15 U.S.C. 632). For the reasons outlined under **Regulatory Evaluation**, the Coast Guard certifies under 5 U.S.C. 605(b) that this proposal, if adopted, will not have a significant economic impact on a substantial number of small entities. If, however, you think that your business qualifies as a small entity and that this proposal will have a significant economic impact on your business, please submit a commend (see "**ADDRESSES**") explaining why you think your business qualifies and in what way and to what degree this proposal will economically affect your business.

Collection of Information

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

Federalism

The Coast Guard has analyzed this proposal in accordance with the principles and criteria contained in Executive Order 12612 and has determined that this proposal does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environment

The Coast Guard considered the environmental impact of this proposal and concluded that under section 2.B.2.c. of Commandant Instruction M16475.1B, this proposal is categorically excluded from further environmental documentation. A Categorical Exclusion Determination is available in the docket for inspection or copying where indicated under **ADDRESSES.**

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Vessels, Waterways.

Proposed Regulations

In consideration of the foregoing the Coast Guard proposes to amend part 165 of title 33, Code of Federal Regulations as follows:

PART 165—[AMENDED]

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

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

2. A new § 165.T0156 is added to read as follows:

§ 165.T0156 Safety Zone: Rhode Island; Lower Narragansett Bay, East Passage.

(a) *Location.* The following area is a safety zone: A moving safety zone encompassing a three hundred yard radius around the swimmers and associated craft participating in Swim the Bay, as they transit from Coaster's Harbor Island Beach (position 41–31N, 071–19.8W) to Potter's Cove (position 41–31N, 071–22W).

(b) *Effective dates.* The regulation in this section is effective between the hours of 9 a.m. and 11 a.m. on August 22, 1992, unless terminated sooner by the Captain of the Port. If the event is postponed from August 22, 1992, due to weather, the regulation in this section will be effective between the hours of 9 a.m. and 11 a.m. on August 23, 1992, unless terminated sooner by the Captain of the Port.

(c) *Regulations.* The general regulations governing safety zones contained in § 165.23 apply.

Dated: June 5, 1992.

H. D. Robinson,

Captain, U.S. Coast Guard, Captain of the Port, Providence, RI.

[FR Doc. 92–14194 Filed 6–19–92; 8:45 am]

BILLING CODE 4910–14–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA-12-10-5353; FRL-4145-9]

Approval and Promulgation of Implementation Plans California State Implementation Plan Revision; Sacramento Metropolitan Air Quality Management District

AGENCY: U.S. Environmental Protection Agency (EPA).

ACTION: Notice of proposed rulemaking.

SUMMARY: EPA is proposing a limited disapproval of revisions to the California State Implementation Plan (SIP) adopted by the Sacramento Metropolitan Air Quality Management District (SMAQMD) on August 21, 1990. The California Air Resources Board submitted these revisions to EPA on April 5, 1991. The revisions concern SMAQMD's Rule 452, Can Coating, which controls the emissions of volatile organic compounds (VOCs) from can coating operations, and SMAQMD's Rule 443, Leaks from Synthetic Organic Chemical and Polymer Manufacturing, which controls the emissions of VOCs from chemical plants. EPA has evaluated the revisions found in Rules 452 and 443, and on August 28, 1991 (56 FR 42572), EPA proposed a limited approval under sections 110(k)(3) and 301(a) of Clean Air Act, as amended in 1990 (CAA or the Act) because these revisions strengthen the SIP. At this time, EPA is proposing a limited disapproval of Rules 452 and 443 under section 110(k)(3) because the rules do not fully meet the part D, section 182(a)(2)(A) requirement of the CAA.

DATES: Comments must be received on or before July 22, 1992.

ADDRESSES: Comments may be mailed to: Esther Hill, Northern California, Nevada & Hawaii, Rulemaking Section (A-5-4), Air and Toxics Division, Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105.

Copies of the rule revisions and EPA's evaluation report of each rule are available for public inspection at EPA's Region 9 office during normal business hours. Copies of the submitted rule revisions are also available for inspection at the following locations:

California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 1219 K Street, Sacramento, CA 95814

Sacramento Metropolitan Air Quality Management District, 8411 Jackson Road, Sacramento, CA 95826.

FOR FURTHER INFORMATION CONTACT: Doris Lo, Northern California, Nevada & Hawaii, Rulemaking Section (A-5-4), Air and Toxics Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105, Telephone: (415) 744-1202.

SUPPLEMENTARY INFORMATION:

Background

On March 3, 1978, EPA promulgated a list of ozone nonattainment areas under the provisions of the Clean Air Act, as amended in 1977 (1977 CAA or pre-amended Act), that included the SMAQMD. 43 FR 8964, 40 CFR 81.305. Because it was not possible for SMAQMD to reach attainment by the statutory attainment date of December 31, 1982, California requested under section 172(a)(2), and EPA approved, an extension of the attainment date for ozone in the SMAQMD to December 31, 1987. 40 CFR 52.222(d). SMAQMD did not attain the ozone standard by the approved attainment date. On May 26, 1988, EPA notified the Governor of California that the SMAQMD's portion of the California SIP was inadequate to attain and maintain the ozone standard and requested that deficiencies in the existing SIP be corrected (EPA's SIP-Call). On November 15, 1990, the amendments to the 1977 CAA were enacted. Public Law 101-549, 104 Stat. 1399, codified at 42 U.S.C. 7401-7671q. In section 182(a)(2)(A) of the CAA, Congress statutorily adopted the requirement that nonattainment areas fix their deficient reasonably available control technology (RACT) rules for ozone and established a deadline of May 15, 1991 for States to submit corrections of those deficiencies.

Section 182(a)(2)(A) applies to areas designated as nonattainment prior to enactment of the amendments and classified as marginal or above as of the date of enactment. It requires such areas to adopt and correct RACT rules pursuant to preamended section 172(b) as interpreted in pre-amendment guidance.[1] EPA's SIP-Call used that guidance to indicate the necessary corrections for specific monattainment areas. Sacramento is classified as serious; [2] therefore, this area is subject to the RACT fix-up requirement and the May 15, 1991 deadline.

The State of California submitted many revised RACT rules to EPA for incorporation into its SIP on April 5, 1991, including the rules being acted on in this notice. This notice addresses EPA's second proposed action for Rule 452, Can Coating, and Rule 443, Leaks from Synthetic Organic Chemical and Polymer Manufacturing. See 56 FR 42572 (August 28, 1991).

Rule 452 controls the emissions of VOCs from can coating operations, and Rule 443 controls the emissions of VOCs from leaks in equipment used in the manufacturing of certain organic chemicals. VOCs contribute to the production of ground level ozone and smog. SCAQMD's Rules 452 and 443 were originally adopted as part of the district's effort to achieve the National Ambient Air Quality Standard (NAAQS) for ozone and have been revised in response to EPA's SIP-Call and the section 182(a)(2)(A) CAA requirement.

On August 28, 1991, EPA proposed a limited approval of these rules under sections 110(k)(3) and 301(a) of the CAA because the revisions strengthen the SIP (56 FR 42572). In that notice, EPA stated its intention to also propose a limited disapproval of submitted Rules 452 and 443 because they contain deficiencies that have not been corrected as required by section 182(a)(2)(A) of the CAA and, as such, the rules do not fully meet the requirements of part D of the Act. In today's action, EPA is proposing a limited disapproval of these rules. The following is EPA's evaluation and proposed action for SCAQMD's Rules 452 and 443.

EPA Evaluation and Proposed Action

In determining the approvability of a VOC rule, EPA must evaluate the rule for consistency with the requirements of the CAA and EPA regulations as found in section 110 and part D of the CAA and 40 CFR part 51 (Requirements for Preparation, Adoption, and Submittal of Implementation Plans). The EPA interpretation of these requirements, which forms the basis for today's action, appears in the various EPA policy guidance documents listed in footnote 1. Among those provisions is the requirement that a VOC rule must, at a minimum, provide for the implementation of reasonably available control technology (RACT) for stationary sources of VOC emissions. This requirement was carried forth from the pre-amended Act.

For the purpose of assisting state and local agencies in developing RACT rules, EPA prepared a series of Control

[1] Among other things, the pre-amendment guidance consists of those portions of the proposed Post-1987 ozone and carbon monoxide policy that concern RACT, 52 FR 45044 (November 24, 1987); "Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations, Clarification to Appendix D of November 24, 1987 **Federal Register** Notice" (Blue Book) (notice of availability was published in the **Federal Register** on May 25, 1988); and the existing control technique guidelines (CTGs).

[2] SMAQMD retained its designation and was classified by operation of law pursuant to sections 107(d) and 181(a) upon the date of enactment of the CAAA. See 56 FR 56694 (November 6, 1991).

Technique Guideline (CTG) documents that, based on the underlying requirements of the Act, specified the presumptive norms for what is RACT for specific source categories. Under the CAA, Congress ratified EPA's use of these documents, as well as other Agency policy, for requiring States to "fix-up" their RACT rules. See section 182(a)(2)(A). The CTG applicable to Rule 452 is entitled "Surface Coating (Volume II—Surface Coating of Cans, Coils, Paper, Fabrics, Automobiles, and Light-Duty Trucks)", EPA document # EPA-450/2-77-008, and the CTG applicable to Rule 443 is entitled "Control of Volatile Organic Compound Leaks from Synthetic Organic Chemical and Polymer Manufacturing Equipment", EPA document # EPA-450/3-83-006. Further interpretations of EPA policy are found in the Blue Book. In general, these guidance documents have been set forth to ensure that VOC rules are fully enforceable and strengthen or maintain the SIP.

SMAQMD's submitted Rule 452, Can Coating, includes the following revisions to the current SIP rule:

—Clarifying language which specifies that clean-up operations previously regulated by District Rule 441, Organic Solvents, are now regulated by Rule 452, Can Coating;
—Deletion of an alternative control provision which was pointed out by EPA as a deficiency;
—Clarification of CAN COATING and END SEALING COMPOUND definitions;
—Revision of the VOC definition for consistency with EPA requirements;
—Revision of coating limits for Two Piece-Can Exterior End Coating and Two Piece Can Interior Body Spray to reflect the most stringent limits found in California district rules;
—Clarification of control device requirements;
—Addition of surface preparation and cleanup and solvent usage requirements for the cleanup of can assembly equipment which should lead to 0.02 tons/day of emission reductions;
—Addition of requirements for Operation and Maintenance Plans to ensure continued efficient operation of emission control devices;
—Specification of test methods for compliance determinations;
—Specification of recordkeeping requirements for coatings and solvents;

SMAQMD's submitted Rule 443, Leaks from Synthetic Organic Chemical and Polymer Manufacturing, includes the following revisions to the current SIP rule:

—Deletion of exemptions for components in natural gas or hydrogen gas service;
—Revision of the definition of inaccessible components and addition of an annual inspection requirement for these components for consistency with EPA requirements;
—Revision of the scope of the rule to expand the types of equipment being regulated;
—Addition of an exemption from routine monitoring for components handling VOCs with low vapor pressure which is consistent with EPA requirements;
—Addition of new terms to further clarify the rule;
—Revision of the definition of a leak for consistency with EPA requirements;
—Revision of the VOC definition for consistency with EPA requirements;
—Revision of the inspection frequency and repair requirements for consistency with EPA requirements;
—Deletion of an alternative inspection provision which was pointed out by EPA as a deficiency;
—Addition of test method requirements;
—Revision of recordkeeping requirements for consistency with EPA requirements.

EPS has evaluated SMAQMD's submitted Rules 452 and 443 for consistency with the CAA, EPA regulations and EPA policy and has found that the revisions address and correct many deficiencies previously identified by EPA. These corrected deficiencies have resulted in clearer, more enforceable rules.

Although the approval of SMAQMD's Rules 452 and 443 will strengthen the SIP, these rules still contain deficiencies which were required to be corrected pursuant to the section 182(a)(2)(A) requirement of part D of the CAA. The deficiencies involve the allowance of "equivalent" test methods in both rules. A detained discussion of rule deficiencies can be found in the Technical Support Document (TSD) for Rule 452 (July 10, 1991) and an addendum to the TSD for Rule 452 (April 17, 1992), and in the TSD for Rule 443 (July 10, 1991) and an addendum to the TSD for Rule 443 (April 17, 1992). These documents are available from the U.S. EPA, Region 9 office. Because of these deficiencies, the rules are not approvable pursuant to section 182(a)(2)(A) of the CAA because the deficiencies cause them to be inconsistent with the interpretation of section 172 of the pre-amended Act as found in the Blue Book and may lead to rule enforceability problems.

Thus, EPA is today proposing a limited disapproval of these rules under section 110(k)(3) because they contain deficiencies that have not been corrected as required by section 182(a)(2)(A) of the CAA, and, as such, the rules do not fully meet the requirements of part D of the Act. Under section 179(a)(2), if the Administrator disapproves a submission under section 110(k) for an area designated nonattainment, based on the submission's failure to meet one or more of the elements required by the Act, the Administrator must apply one of the sanctions set forth in section 179(b) unless the deficiency has been corrected within 18 months of such disapproval. Section 179(b) provides two sanctions available to the Administrator: Highway funding and offsets. The 18-month period referred to in section 179(a) will begin at the time EPA publishes final notice of this disapproval. At the end of that period, if EPA has not approved these rules as meeting the applicable requirement of section 182(a)(2)(A), EPA will impose one of these two sanctions. Moreover, the final disapproval triggers the federal implementation plan (FIP) requirement under section 110(c).

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

Regulatory Process

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

This action has been classified as a Table 2 action by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214–2225). On January 6, 1989, the Office of Management and Budget (OMB) waived Table 2 and Table 3 SIP revision (54 FR 2222) from the requirements of section 3 of Executive Order 12291 for a period of two years. EPA has submitted a request for a permanent wavier for Table 2 and Table 3 SIP revisions. OMB has agreed to continue the temporary waiver until such time as it rules on EPA's request.

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Hydrocarbons, Intergovernmental

relations, Reporting and recordkeeping requirements.

Authority: 42 U.S.C. 7401–7671q.

Dated: June 9, 1992.

John Wise,

Acting Regional Administrator.

[FR Doc. 92–14592 Filed 6–19–92; 8:45 am]

BILLING CODE 6560–50–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 672

[Docket No. 920367–2150; I.D. No. 052692C]

Groundfish of the Gulf of Alaska

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Notice of proposed amendment to the notice of 1992 specifications to establish a Pacific halibut bycatch allowance; request for comments.

SUMMARY: NMFS proposes to amend the notice of 1992 specifications for groundfish in the Gulf of Alaska (GOA) to establish a 10-metric ton Pacific halibut bycatch allowance for the demersal shelf rockfish (DSR) hook-and-line fishery in the Southeast Outside District of th GOA. This action is necessary to make this fishery separately accountable for incidental catches of Pacific halibut during the 1992 fishing year and to prevent an unnecessary fishery closure. This action is intended to promote the goals and objectives of the North Pacific Fishery Management Council (Council) with respect to groundfish management off Alaska.

DATES: Comments are invited through July 2, 1992.

ADDRESSES: Comments may be sent to Steven Pennoyer, Director, Alaska Region, Box 21668, Juneau, AK 99802. Copies of the environmental assessment (EA) (February 1992) prepared for the proposed management of the DSR fishery may be obtained from the same address.

FOR FURTHER INFORMATION CONTACT: Ronald J. Berg, Chief, Fisheries Management Division, (907) 586–7229.

SUPPLEMENTARY INFORMATION:

Background

The domestic and foreign groundfish fisheries in the exclusive economic zone of the GOA are managed by the Secretary of the Commerce (Secretary) under the FMP, which was prepared by the Council under the Magnuson Fishery Conservation and Management Act (Magnuson Act) and is implemented by regulations for the foreign fishery at 50 CFR part 611 and for the U.S. fishery at 50 CFR part 672. General regulations that also pertian to the U.S. fisheries appear at 50 CFR part 620.

Under implementing regulations at 50 CFR 672.20(f)(2), the Secretary, in consultation with the Council, is authorized to specify a halibut PSC limit for hook-and-line gear. The Secretary already has specified a 1992 halibut bycatch limit of 750 metric tons (mt) for hook-and-line gear (57 FR 844, January 24, 1992). A proposed rule has been published that would authorize the Secretary to further apportion this limit into bycatch allowances to vessels participating in the directed hook-and-line fishery for DSR in the Southeast Outside District and all other hook-and-line gear fisheries in the GOA (April 8, 1992, 57 FR 11930).

Contingent upon promulgation of a final rule authorizing the apportionment of a halibut PSC bycatch allowance to the directed hook-and-line fishery for DSR NMFS proposes to apportion 10 mt. of the PSC limit to the 1992 DSR hook-and-line fishery in the Southeast Outside District. This amount would be subtracted from the 500 mt allowance apportioned to hook-and-line gear during the period May 15–August 31, 1992, provided by the notice of 1992 specifications (57 FR 2844, January 24, 1992) in Table 3. Because the 10 mt for the DSR fishery is only a 2 percent reduction form the apportionment to other hook-and-line gear fisheries, NMFS expects that any impact would be relatively small. NMFS has determined that 10 mt would be sufficient to support the 1992 DSR hook-and-line fishery, reducing the possibility of its being closed prematurely by halibut bycatch in hook-and-line fisheries for other groundfish species occurring earlier in the year. As summarized in the EA under the status quo alternative, gross revenue for hook-and-line fishermen could be lost if the DSR fishery were prematurely closed. In 1991, estimated exvessel earnings that were foregone due to premature closure of the DSR fishery totaled about $300,000. On average, 40 DSR fishermen who economically depend on the DSR fishery each lost about $2,500.

Under the proposed apportionment of 10 mt of the Pacific halibut PSC to the DSR fishery, $2,500 represents a lower limit on additional gross revenue that might be earned by each fisherman if the DSR fishery is not closed prematurely. This action would foster economic growth in the DSR fishery and would not impose a significant cost on other hook-and-line fisheries. The Council recommended this action during its December 2–9, 1991, meeting.

Accordingly, NMFS proposes to amend Table 3 of the notice of 1992 specifications for the groundfish fishery of the GOA as follows:

TABLE 3.—ALLOCATION OF PACIFIC HALIBUT PSC LIMITS BETWEEN GEAR TYPES, IN MT.

Trawl gear		Hook-and-line gear			
		Other than DSR		DSR	
Dates	Amount	Dates	Amount	Dates	Amount
January 1 to March 31	600	January 1 to May 14	200	June 29 to December 31	10
April 1 to June 30	600	May 15 to August 31	490		
July 1 to September 29	400	September 1 to December 31	50		
September 30 to December 31	400				
Total	2,000		740		10

Classification

This action is taken under § 672.20 and complies with E.O. 12291.

The Alaska Region, NMFS, prepared an EA for the proposed rule that would authorize the Secretary to further apportion the halibut PSC limit to the DSR hook-and-line fishery and to all other groundfish hook-and-line fisheries. Impacts on the human environment of apportioning a 10-mt halibut allowance to the DSR hook-and-line fishery are within the scope of those already

analyzed in the EA. A copy of the EA may be obtained from the Regional Director (see **ADDRESSES**).

NMFS concluded formal Section 7 Consultations on the FMP and fisheries in 1991. The biological opinions issued for the consultations concluded that the FMP and fisheries are not likely to jeopardize the continued existence and recovery of any endangered or threatened species under the jurisdiction of NMFS. Adoption of the proposed reallocation of Pacific halibut will not affect listed species in a way that was not already considered in the aforementioned biological opinions. NMFS has determined that no further section 7 consultation is required for adoption of this action.

List of Subjects in 50 CFR Part 672

Fisheries, Reporting and recordkeeping requirements.

Dated: June 17, 1992.

Michael F. Tillman,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 92-14645 Filed 6-17-92; 3:18 pm]

BILLING CODE 3510-22-M

Notices

Federal Register
Vol. 57, No. 120
Monday, June 22, 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

Office of the Secretary

Price Undercutting of Domestic Swiss Cheese By Imported Swiss Cheese Produced in Switzerland

AGENCY: Department of Agriculture (USDA).

ACTION: Notice.

On May 14, 1992, the U.S. Department of Agriculture received a complaint alleging price undercutting of domestic Swiss cheese by imported subsidized Swiss cheese produced in Switzerland. Under section 702 of the Trade Agreements Act of 1979 (Pub. L. 96–39), the Secretary of Agriculture must conduct a price undercutting investigation and make a determination as to the validity of the allegation no later than 30 days after receiving a complaint.

Based on the investigation of the Acting Director of the Dairy, Livestock and Poultry Division, Foreign Agricultural Service, pursuant to the regulations at 7 CFR 6.40–44, I have determined that the duty-paid wholesale price during the period November 1991 through April 1992 of Swiss cheese wheels for industrial purposes imported from Switzerland in the New York—New Jersey market area was $1.14 per pound. I have also determined that the domestic wholesale market price during the period November 1991 through April 1992 for similar U.S. produced Swiss cheese large blocks in the New York—New Jersey market area was $1.56 per pound.

Joseph A. Spetrini, Deputy Assistant Secretary for Compliance, Department of Commerce, has determined that the subsidies, including all advertising and promotional expenses paid by the Government of Switzerland on the quota cheese of Swiss origin during the investigation period, amounted to $1.713 per pound during October—December 1991, $1.822 per pound during January—March 1992, and $1.648 per pound during April 1992.

I have, therefore, determined that price undercutting of U.S. produced Swiss cheese by imported subsidized Swiss cheese from Switzerland is taking place, and I have notified the United States Trade Representative accordingly.

Done at Washington, DC this 18th day of June, 1992.

Edward Madigan,

Secretary of Agriculture.

[FR Doc. 92–14766 Filed 6–18–92; 2:51 pm]

BILLING CODE 3410–10–M

Animal and Plant Health Inspection Service

[Docket No. 92–085–1]

Availability of Environmental Assessments and Findings of No Significant Impact Relative to Issuance of Permits to Field Test Genetically Engineered Organisms

AGENCY: Animal and Plant Health Inspection, USDA.

ACTION: Notice.

SUMMARY: We are advising the public that 12 environmental assessments and findings of no significant impact have been prepared by the Animal and Plant Health Inspection Service relative to the issuance of permits to allow the field testing of genetically engineered organisms. The environmental assessments provide a basis for our conclusion that the field testing of these genetically engineered organisms will not present a risk of introducing or disseminating a plant pest and will not have a significant impact on the quality of the human environment. Based on its findings of no significant impact, the Animal and Plant Health Inspection Service has determined that environmental impact statements need not be prepared.

ADDRESSES: Copies of the environmental assessments and findings of no significant impact are available for public inspection at USDA, room 1141, South Building, 14th Street and Independence Avenue, SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Dr. Arnold Foudin, Deputy Director, Biotechnology Permits, Biotechnology, Biologics, and Environmental Protection, APHIS, USDA, room 850, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436–7612. For copies of the environmental assessments and findings of no significant impact, write to Clayton Givens at the same address. Please refer to the permit numbers listed below when ordering documents.

SUPPLEMENTARY INFORMATION: The regulations in 7 CFR part 340 (referred to below as the regulations) regulate the introduction (importation, interstate movement, and release into the environment) of genetically engineered organisms and products that are plant pests or that there is reason to believe are plant pests (regulated articles). A permit must be obtained before a regulated article may be introduced into the United States. The regulations set forth the procedures for obtaining a limited permit for the importation or interstate movement of a regulated article and for obtaining a permit for the release into the environment of a regulated article. The Animal and Plant Health Inspection Service (APHIS) has stated that it would prepare an environmental assessment and, when necessary, an environmental impact statement before issuing a permit for the release into the environment of a regulated article (see 52 FR 22906).

In the course of reviewing each permit application, APHIS assessed the impact on the environment that releasing the organisms under the conditions described in the permit application would have. APHIS has issued permits for the field testing of the organisms listed below after concluding that the organisms will not present a risk of plant pest introduction or dissemination and will not have a significant impact on the quality of the human environment. The environmental assessments and findings of no significant impact, which are based on data submitted by the applicants and on a review of other relevant literature, provide the public with documentation of APHIS' review and analysis of the environmental impacts associated with conducting the field tests.

Environmental assessments and finds of no significant impact have been

prepared by APHIS relative to the issuance of permits to allow the field testing of the following genetically engineered organisms:

Permit No.	Permittee	Date Issued	Organisms	Field Test Location
92-052-01	University of Arizona	5-20-92	Tobacco plants genetically engineered to express a coat protein gene of the beet curly top virus (BCTV) for resistance to BCTV.	Pima County, Arizona.
92-055-01	Monsanto Agricultural Company	5-20-92	Soybean plants genetically engineered to express the enzyme 5-enolpyruvyl shikimate-3-phosphate synthase (EPSPS) and a metabolizing enzyme for tolerance to the herbicide glyphosate.	Montgomery County, Virginia.
92-022-01	Pioneer Hi-Bred International, Incorporated.	5-21-92	Soybean plants genetically engineered to express a methionine-rich seed storage protein gene from Brazil nut.	Champaign County, Illinois; Polk County, Iowa; Salinas County, Missouri; and Henry County, Ohio.
92-022-04	Calgene, Incorporated	5-21-92	Tomato plants genetically engineered to express an antisense polygalacturonase (PG) gene, a cytokinin production gene, and ethylene regulation genes, all of which are involved in ripening.	Solano, San Diego, and San Joaquin Counties, California.
92-037-06	Monsanto Agricultural Company	5-21-92	Soybean plants genetically engineered to express the enzyme 5-enolpyruvyl shikimate-3-phosphate synthase (EPSPS) and a metabolizing enzyme for tolerance to the herbicide glyphosate.	Crittenden and Jackson Counties, Arkansas; Oglethorpe County, Georgia; Chautauqua County, Kansas; Alexander and Henry Counties, Illinois; Hamilton and Morgan Counties, Indiana; Des Moines and Hamilton Counties, Iowa; Ballard County, Kentucky; St. Landry Parish, Louisiana; Ottawa County, Michigan; Washington County, Mississippi; Shelby and Pemiscot Counties, Missouri; Webster County, Nebraska; Fayette County, Ohio; Barnwell County, South Carolina; Fayette County, Tennessee; and Greensville County, Virginia.
92-041-02	Northrup King Company	5-21-92	Alfalfa plants genetically engineered to express the phosphinothricin acetyltransferase (PAT) gene for tolerance to the herbicide glufosinate.	Goodhue County, Minnesota, or Dane County, Wisconsin.
92-043-03, renewal of permit 91-051-03, issued on 5-30-91.	Upjohn Company	5-21-92	Soybean plants genetically engineered to express the B-glucuronidase (GUS) and phosphinothricin acetyltransferase (PAT) enzymes for tolerance to the herbicide bialaphos.	Crittenden County, Arkansas; Christian County, Illinois; and Queen Annes County, Maryland.
92-049-01	Monsanto Agricultral Company	5-21-92	Tomato plants genetically engineered to express a heterologous aminocyclopropane-1-carboxylic acid (ACC) degradation gene to delay ripening.	Yolo County, California, and Jersey County, Illinois.
92-021-01	U.S. Department of Agriculture, Agricultural Research Service.	5-22-92	Potato plants genetically engineered to express coat protein genes from potato leaf roll virus (PLRV) and potato virus Y (PVY) for resistance to PLRV and PVY.	Benton County, Washington.
92-043-02	Upjohn Company	5-22-92	Soybean plants genetically engineered to express the B-glucuronidase (GUS) and phosphinothricin acetyltransferase (PAT) enzymes for tolerance to the herbicide bialaphos.	Henry County, Illinois; Miscatine County, Iows; Washington County, Mississippi; and Saunders County, Nebraska.
92-080-03, renewal of permit 91-052-02, issued on 06-18-91.	Montana State University	5-22-92	Potato plants genetically engineered to express a cecropin B analog gene for resistance to potato ring rot bacteria, bacterial soft rot, and common scab.	Gallatin and Lake Counties, Montana.
92-080-05	Cargill Hybrid Seeds	5-22-92	Corn plants genetically engineered to express tolerance to the herbicide glufosinate.	Kane County, Illinois.

The environmental assessments and findings of no significant impact have been prepared in accordance with: (1) The National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321 *et seq.*), (2) Regulations of the Council on Environmental Quality for Implementing the Procedural Provisions of NEPA (40 CFR 1500–1508), (3) USDA Regulations Implementing NEPA (7 CFR part 1b), and (4) APHIS Guidelines Implementing NEPA (44 FR 50381–50384, August 28, 1979, and 44 FR 51272–51274, August 31, 1979).

Done in Washington, DC, this 16th day of June 1992.

Lonnie J. King,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 92-14618 Filed 6-19-92; 8:45 am]

BILLING CODE 3410-34-M

[Docket No. 92-089-1]

Availability of Environmental Assessments and Findings of No Significant Impact Relative to Issuance of Permits to Field Test Genetically Engineered Organisms

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: We are advising the public the seven environmental assessments and findings of no significant impact have been prepared by the Animal and Plant Health Inspection Service relative to the issuance of permits to allow the field testing of genetically engineered organisms. The environmental assessments provide a basis for our conclusion that the field testing of these genetically engineered organisms will not present a risk of introducing or disseminating a plant pest and will not have a significant impact on the quality of the human environment. Based on its findings of no significant impact, the Animal and Plant Health Inspection Service has determined that environmental impact statements need not be prepared.

ADDRESSES: Copies of the environmental assessments and findings of no significant impact are available for public inspection at USDA, room 1141, South Building, 14th Street and Independence Avenue, SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Dr. Arnold Foudin, Deputy Director, Biotechnology Permits, Biotechnology, Biologics, and Environmental Protection, APHIS, USDA, room 850, Federal Building, 6505 Belcrest Road, Hyattville, MD 20782, (301) 436-7612. For copies of the environmental assessments and findings of no significant impact, write to Clayton Givens at the same address. Please refer to the permit numbers listed below when ordering documents.

SUPPLEMENTARY INFORMATION: The regulations in 7 CFR part 340 (referred to below as the regulations) regulate the introduction (important, interstate movement, and release into the environment) of genetically engineered organisms and products that are plant pests or that there is reason to believe are plant pests (regulated articles). A permit must be obtained before a regulated article may be introduced into the United States. The regulations set forth the procedures for obtaining a limited permit for the importation or interstate movement of a regulated article and for obtaining a permit for the release into the environment of a regulated article. The Animal and Plant Health Inspection Service (APHIS) has stated that it would prepare an environmental assessment and, when necessary, an environmental impact statement before issuing a permit for the release into the environment of a regulated article (see 52 FR 22906).

In the course of reviewing each permit application, APHIS assessed the impact on the environment that releasing the organisms under the conditions described in the permit application would have. APHIS has issued permits for the field testing of the organisms listed below after concluding that the organisms will not present a risk of plant pest introduction or dissemination and will not have a significant impact on the quality of the human environment. The environmental assessments and findings of no significant impact, which are based on data submitted by the applicants and on a review of other relevant literature, provide the public with documentation of APHIS' review and analysis of the environmental impacts associated with conducting the field tests.

Environmental assessments and findings of no significant impact have been prepared by APHIS relative to the issuance of permits to allow the field testing of the following genetically engineered organisms:

Permit No.	Permittee	Date issued	Organisms	Field test location
92-036-01, renewal of permit 90-345-02, issued on 5-02-91.	Washington State University	5-26-92	Potato plants genetically engineered to express disease resistance response genes from the pea.	Benton County, Washington.
92-028-01	Purdue University	5-27-92	Tomato plants genetically engineered to express an anti-sense pectin methylesterase (PME) chimeric gene to increase the soluble solid content.	Tippecano County, Indiana.
92-042-01	Ciba-Geigy Corporation	5-27-92	Corn plants genetically engineered to express the phosphinothricin acetyl-transferase (PAT) gene, for tolerane to the herbicide glufosinate, and a delta-endo-toxin protein from *Bacillus thuringiensis* subsp. *kurstaki* strain HD1 for resistance to lepidopteran insects.	McLean County, Illinois.
92-056-01	ICI Seeds, Incorporated	5-29-92	Corn plants genetically engineered to express genes from a non-pathogenic source organism for tolerance to the herbicide glufosinate.	Boone County, Iowa.
92-090-02	Monsanto Agricultural Company	5-29-92	Potato plants genetically engineered to express the coat protein genes of potato, viruses X (PVX) and Y (PVY) for resistance to PVX and PVY.	Benton County, Washington.
92-076-01	Monsanto Agricultural Company	6-01-92	Tomato plants genetically engineered to express an experimental herbicide detoxification enzyme for tolerance to the herbicide pyridine.	Jersey County, Illinois.
92-090-01	Upjohn Company	6-01-92	Soybean plants genetically engineered to express a phos-phinothricin acetyl transferase (PAT) gene for tolerance to the herbicide bialaphos.	Kalamazoo County, Michigan.

The environmental assessments and findings of no significant impact have been prepared in accordance with: (1) The National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321 *et seq.*), (2) Regulations of the Council on

Environmental Quality for Implementing the Procedural Provisions of NEPA (40 CFR parts 1500–1508), (3) USDA Regulations Implementing NEPA (7 CFR part 1b), and (4) APHIS Guidelines Implementing NEPA (44 50381–50384, August 28, 1979, and 44 FR 51272–51274, August 31, 1979.

Done in Washington, DC, this 16th day of June 1992.

Lonnie J. King,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 92–14619 Filed 6–19–92; 8:45 am]

BILLING CODE 3410-34-M

Forest Service

Hungry Ridge—Mill Creek Timber Harvest; Nez Perce National Forest; Idaho County, ID

AGENCY: Forest Service, USDA.

ACTION: Notice; intent to prepare environmental impact statement.

SUMMARY: The Forest Service will prepare an environmental impact statement (EIS) to analyze and disclose the environmental impacts of a proposal to harvest timber; to construct, reconstruct, recondition, and obliterate roads; and to manage access in the Mill Creek, Johns Creek, American Creek, Trout Creek, Big Canyon Creek, Merton Creek, Deer Creek, and Dry Gulch drainages located about 13 miles southeast of Grangeville, Idaho. This EIS will tier to the Nez Perce National Forest Land and Resource Management Plan and EIS, which provide overall guidance for achieving the desired future forest condition of the area. The purpose of the proposed action is to help satisfy short-term demands for timber, to maintain or improve timber stand health and vigor, and to move toward an equal distribution of timber age classes.

DATES: Written comments and suggestions should be received by July 22, 1992.

ADDRESSES: Send written comments to District Ranger, Clearwater Ranger District, Route 2, Box 475, Grangeville, Idaho 83530.

FOR FURTHER INFORMATION CONTACT: Sue Paradiso, Interdisciplinary Team Leader, (208) 983–1963.

SUPPLEMENTARY INFORMATION: The timber management activities under consideration would occur within an analysis area containing approximately 38,000 acres. The proposed timber harvest would directly affect about 1,400 acres of the analysis area. About 9 miles of road would be constructed, 3 miles reconstructed or reconditioned, and 4 miles obliterated.

Preliminary scoping, including public and agency participation, was completed in early 1992. At that time, an Environmental Assessment (EA) and Finding of No Significant Impact (FONSI) were envisioned. Work proceeded on the EA, but the Interdisciplinary Team gradually concluded that in the local context of the proposed action, the intensity of adverse impacts could be significant. In such cases, an Environmental Impact Statement (EIS) is required.

The local context of the proposed action includes the following:

1. Johns Creek has been designated a "Stream Segment of Concern" by the State of Idaho. The state made this designation under antidegredation requirements of the federal Clean Water Act as specified by the U.S. Environmental Protection Agency. The designation means that Best Management Practices (BMPs) in addition to those specified in the Idaho Forest Practices Act and the Idaho Stream Channel Alteration Act may be required.

2. Johns Creek and Mill Creek contain spawning habitat for Snake River chinook salmon. These fish have been listed as threatened under the Endangered Species Act. Critical habitat has not yet been designated.

3. Big Canyon Creek, Mill Creek, Merton Creek, Deer Creek, American Creek, and Trout Creek are presently below Forest Plan objectives for fish habitat and water quality. The Forest Plan permits timber management in below-objective watersheds concurrent with a "positive upward trend" in fish habitat and water quality conditions.

4. The endangered bald eagle and the endangered Northern Rocky Mountain gray wolf may reside or have suitable habitat in the analysis area.

The principal issues identified to date are:

1. Fish habitat and water quality, including means of BMP compliance, riparian management, achievement of an upward trend in fish habitat conditions, and impacts on threatened species;

2. Wildlife, including impacts on endangered species and big game winter habitat;

3. Timber, including acres to be harvested, silvicultural treatments, and means of achieving regeneration of harvested acres within five years;

4. Access, including management of existing and proposed roads.

Development of alternatives is underway, and additional comments or questions are being solicited at this time. Consultation with the U.S. Fish and Wildlife Service and the National Marine Fisheries Service will be initiated with regard to species listed under the Endangered Species Act. The Idaho Department of Health and Welfare—Division of Environmental Quality, the Idaho Department of Fish and Game, and the Nez Perce Indian Tribe have been and will continue to be consulted. No additional public meetings are now scheduled, but they will be arranged if needed. While public participation in this analysis is welcome at any time, comments received within 30 days of the publication of this notice will be especially useful in the preparation of the draft EIS, which is expected to be filed with the EPA and available for public review in September, 1992. A 45-day comment period will follow publication of a Notice of Availability of the draft EIS in the **Federal Register**. The comments received will be analyzed and considered in preparation of a final EIS, which is expected to be filed in January, 1993. A Record of Decision will be issued not less than 30 days after publication of a Notice of Availability of the final EIS in the **Federal Register**.

The Forest Service believes it is important at this early stage to give reviewers notice of several court rulings related to public participation in the environmental review process. First, reviewers of draft EISs must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp.* v. *NRDC*, 435 U.S. 519, 513 (1978). Also, environmental objections that could be raised at the draft EIS stage but that are not raised until after completion of the final EIS may be waived or dismissed by the courts. *City of Angoon* v. *Hodel*, 803 F.2d 1016, 1022 (9th Cir, 1986) and *Wisconsin Heritages Inc.* v. *Harris*, 490 F.Supp. 1334, 1338 (E.D. Wis., 1980). Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the 45-day comment period so that substantive comments and objections are available to the Forest Service at a time when it can meaningfully consider them and respond to them in the final EIS.

To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments on the draft EIS should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the draft statement. Reviewers may wish to refer to the

Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points.

I am the responsible official for this environmental impact statement.

Dated: June 8, 1992.

Michael King,

Forest Supervisor, Nez Perce National Forest.

[FR Doc. 92-14523 Filed 6-19-92; 8:45 am]

BILLING CODE 3410-11-M

DEPARTMENT OF COMMERCE

Bureau of Export Administration

Action Affecting Export Privileges; Al Glenn Merritt

In the Matter of: Al Glenn Merritt, 201 Sleepy Hollow, Lafayette, Louisiana 70506, Respondent.

Order

Whereas, the Office of Export Enforcement, Bureau of Export Administration, United States Department of Commerce (Department), has notified Al Glenn Merritt (hereinafter referred to as Merritt) of its intention to issue a Charging Letter against Merritt pursuant to section 13(c) of the Export Administration Act of 1979, as amended (50 U.S.C.A. app. 2401-2420 (1991)) (the Act,[1] alleging that Merritt violated the provisions of §§ 787.3(a) and 787.5(a) of the Export Administration Regulations (currently codified at 15 CFR parts 768-799 (1991)) (the Regulations), in that (a) on or about September 23, 1989, Merritt attempted to export , from the United States through Holland to Libya, one U.S.-origin IBM personal compter system and accessories, without obtaining from the Department the required validated export license, and (b) in connection with the shipment, Merritt misrepresented that the ultimate destination was Holland when the true ultimate destination was Libya, and

Whereas, the Department and Merritt have entered into a Consent Agreement whereby they have agreed to settle this matter in accordance with the terms and conditions set forth therein and the terms of the Consent Agreement having been approved by me;

Therefore, it is ordered:

I. All outstanding individual validated licenses in which Merritt appears or participates, in any manner or capacity, are hereby revoked and shall be returned forthwith to the Office of Export Licensing for cancellation. Further, all of Merritt's privileges of participating, in any manner or capacity, in any special licensing procedure, including, but not limited to, distribution licenses, are hereby revoked.

II. Al Glenn Merritt (hereinafter referred to as Merritt), 201 Sleepy Hollow, Lafayette, Louisiana 70506, and all his successors, assigns, officers, partners, representatives, agents and employees, for a period of three years from the date of the entry of this order, hereby is denied all privileges of participating, directly or indirectly, in any manner or capacity, in any transaction in the United States or abroad involving any commodity or technical data exported or to be exported from the United States, in whole or in part, and subject to the Regulations. Without limiting the generality of the foregoing, participation, either in the United States or abroad, shall include participation, directly or indirectly, in any manner or capacity: (i) As a party or as a representative of a party to any export license application submitted to the Department; (ii) in preparing or filing with the Department any export license application or request for reexport authorization, or any document to be submitted therewith; (iii) in obtaining from the Department or using any validated or general export license, reexport authorization or other export control document; (iv) in carrying on negotiations with respect to, or in receiving, ordering, buying, selling, delivering, storing, using, or disposing of, in whole or in part, any commodities or technical data exported or to be exported from the United States, and subject to the Regulations; and (v) in financing, forwarding, transporting, or other servicing of such commodities or technical data.

III. After notice and opportunity for comment, any person, firm, corporation, or business organization related to Merritt by affiliation, ownership, control, or position of responsibility in the conduct of trade or related services may also be subject to the provisions of this Order.

IV. As provided in § 787.12(a) of the Regulations, without prior disclosure of the facts to and specific authorization of the Office of Export Licensing, in consultation with the Office of Export Enforcement, no person may directly or indirectly, in any manner or capacity: (i) Apply for, obtain, or use any license, Shipper's Export Declaration, bill of lading, or other export control document relating to an export or reexport of commodities or technical data by, to, or for another person then subject to an order revoking or denying his export privileges or then excluded from practice before the Bureau of Export Administration; or (ii) order, buy, receive, use, sell, deliver, store, dispose of, forward, transport, finance, or otherwise service or participate: (a) In any transaction which may involve any commodity or technical data exported or to be exported from the United States; (b) in any reexport thereof; or (c) in any other transaction which is subject to the Export Administration Regulations, if the person denied export privileges may obtain any benefit or have any interest in, directly or indirectly, any of these transactions.

V. The proposed Charging Letter, the Consent Agreement and this Order shall be made available to the public.

VI. A copy of this Order shall be served on Merritt. This Order shall be published in the **Federal Register**.

Dated: June 11, 1992.

Douglas E. Lavin,

Acting Assistant Secretary for Export Enforcement.

[FR Doc. 92-14524 Filed 6-19-92; 8:45 am]

BILLING CODE 3510-DT-M

[1] The Act expired on September 30, 1990. Executive Order 12730 (55 FR 40373, October 2, 1990) continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C.A. 1701-1706 (1991)).

International Trade Administration

[A-580-810]

Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Certain Welded Stainless Steel Pipes From the Republic of Korea

AGENCY: Import Administration, International Trade Administration, Commerce.

EFFECTIVE DATE: June 22, 1992.

FOR FURTHER INFORMATION CONTACT: John Gloninger, Office of Antidumping Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 377-2778.

PRELIMINARY DETERMINATION: We preliminarily determine that certain welded stainless steel pipes from the Republic of Korea (Korea) are being, or are likely to be, sold in the United States at less than fair value, as provided in section 733 of the Tariff Act of 1930, as amended (the Act). The estimated margins are shown in the "Suspension of Liquidation" section of this notice.

Case History

Since the initiation of this investigation on December 9, 1991, (56 FR 65043, December 13, 1991), the following events have occurred.

On January 2, 1992, the U.S. International Trade Commission (ITC) issued an affirmative preliminary injury determination.

On January 10, 1992, petitioners requested that the Department expand the period of investigation (POI) to include all of 1991. We received additional comments on this issue from petitioner and respondents. On March 13, 1992, the Department determined that the normal POI would be adequate in this investigation.

On January 22 and January 27, 1992, the Department presented an antidumping duty questionnaire to Sammi Metal Products Co., Ltd. (SMP) and Pusan Steel Pipe Co., Ltd. (PSP), respectively. These two respondents accounted for at least 60 percent of the sales of WSSP to the United States.

The respondents submitted sales questionnaire responses in February and March, 1992. We issued supplemental sales questionnaires in February and March, 1992, and received the responses in March and April, 1992.

On April 2, 1992, petitioners requested that the Department postpone the preliminary determination until May 27, 1992, pursuant to 19 CFR 353.15(c). The Department granted this request on April 7, 1992 (57 FR 12911, April 14, 1992). On April 22, 1992, petitioners requested that the Department postpone the preliminary determination until June 15, 1992, pursuant to 19 CFR 353.15(c). The Department granted this request on April 30, 1992 (57 FR 19602, May 7, 1992).

In a submission dated March 25, 1992, petitioners alleged that SMP and PSP sold WSSP in the home market at prices below the cost of production. On April 3, 1992, the Department determined that it had reasonable grounds to believe or suspect that SMP and PSP had sold WSSP below cost in the home market and, therefore, initiated a cost investigation in accordance with section 773(b) of the Act. The Department issued Cost of Production and Constructed Value Questionnaires to SMP and PSP on April 7, 1992. Responses to the questionnaire were originally due on May 7, 1992. At respondents' request, the Department granted an extension of time until May 14, 1992, to report cost data. The Department sent deficiency letters on May 22, 1992, and received responses on June 1, 1992.

On June 15, 1992, respondents SMP and PSP requested that, in the event of an affirmative preliminary determination in this investigation, the Department postpone the final determination to 135 days after the date of the publication of the affirmative preliminary determination. See Postponement of Final Determination section of this notice.

Scope of Investigation

The merchandise subject to this investigation is welded austenitic stainless steel pipe (WSSP) that meets the standards and specifications set forth by the American Society for Testing and Materials (ASTM) for the welded form of chromium-nickel pipe designated ASTM A–312. The merchandise covered by the scope of the investigation also includes austenitic welded stainless steel pipes made according to the standards of other nations which are comparable to ASTM–312.

WSSP is produced by forming stainless steel flat-rolled products into a tubular configuration and welding along the seam. WSSP is a commodity product generally used as a conduit to transmit liquids or gases. Major applications for WSSP include, but are not limited to, digester lines, blow lines, pharmaceutical lines, petrochemical stock lines, brewery process and transport lines, general food processing lines, automotive paint lines and paper process machines.

Imports of WSSP are currently classifiable under the following Harmonized Tariff Schedule (HTS) subheadings: 7306.40.1000, 7306.40.5010, 7306.40.5030, 7306.40.5050 and 7306.40.5070. Although these subheadings include both pipes and tubes, the scope of this investigation is limited to welded austenitic WSSP. Although the HTS subheadings are provided for convenience and customers purposes, our written description of the scope of this investigation is dispositive.

Period of Investigation

The period of investigation is June 1, 1991, through November 30, 1991.

Such or Similar Comparisons

We have determined that all the products covered by this investigation constitute a single category of such or similar merchandise. Where there were no sales of identical merchandise in the home market to compare to U.S. sales, we made similar merchandise comparisons on the basis of: (1) Specification/alloy; (2) nominal pipe size; (3) surface finish or coating; (4) wall thickness, and (5) end finish. We made adjustments for differences in the physical characteristics of the merchandise deemed "similar", in accordance with section 773(a)(4) (C) of the Act.

We made sales comparisons on the basis of theoretical weight; that is, the weight basis on which respondents reported that U.S. sales were made.

Fair Value Comparisons

To determine whether sales of WSSP pipe from Korea to the United States were made at less than fair value, we compared the United States price (USP) to the foreign market value (FMV), as specified in the "United States Price" and "Foreign Market Value" sections of this notice.

United States Price

For SMP, we based all USP on purchase price, and for PSP, we based some USP on purchase price, in accordance with section 772(b) of the Act, because the subject merchandise was sold to unrelated purchasers in the United States prior to importation and because exporter's sale price (ESP) methodolgy, in those instances, was not otherwise indicated.

In addition, for PSP, where certain sales to the first unrelated purchaser took place after importation into the United States, we also based USP on ESP, in accordance with section 772(c) of the Act.

For SMP and PSP, because a value-added tax (VAT) was paid on home market sales but not on U.S. sales, for comparisons between U.S. and home market prices we added to the U.S. selling price the amount of the VAT that would have been collected if the export sales had been taxed.

A. SMP

For SMP, we calculated purchase price based on packed, c.i.f. or ex-dock, duty paid prices to unrelated customers in the United States. We made deductions, where appropriate, for ocean freight, marine insurance, U.S. duty, U.S. brokerage and handling, foreign brokerage and handling, foreign inland freight, and containerization. We recalculated foreign inland freight on a monthly basis because respondent reported an average for the entire POI. We added duty drawback to USP pursuant to section 772(d)(1)(B) of the Act.

B. PSP

For PSP, we calculated purchase price based on packed, ex-dock, duty paid prices to unrelated customers in the United States. We made deductions, where appropriate, for ocean freight, marine insurance, U.S. duty, U.S.

brokerage and handling, U.S. wharfage, foreign brokerage and handling, and foreign inland freight. We added duty drawback to USP pursuant to section 772(d)(1)(B) of the Act. We recalculated foreign inland freight on a monthly basis because respondent reported an average for the entire POI.

PSP has requested that the Department exclude from its analysis a U.S. sale of returned goods because it was not in the ordinary course of trade. We denied PSP's request because the ordinary course of trade exclusion is applicable to foreign market value only (see section 773(a)(1)(A) of the Act). Although, in an investigation, the Department may exclude aberrational sales from its analysis, PSP has not provided any information to demonstrate that such an exclusion is warranted.

We calculated ESP based on packed, f.o.b. or ex-dock, duty paid prices, to unrelated customers in the United States. We made deductions, where appropriate, for ocean freight, marine insurance, U.S. duty, U.S. brokerage and handling, U.S. inland freight, U.S. wharfage, foreign brokerage and handling, and foreign inland freight. In accordance with section 772(e)(2) of the Act, we made additional adjustments, where appropriate, for credit expenses, U.S. indirect selling expenses, including inventory carrying costs, and foreign indirect selling expenses. We recalculated foreign indirect selling expenses because respondent's calculation did not match its narrative description. We recalculated foreign inland freight on a monthly basis, and we recalculated foreign brokerage and handling to be port-of-entry specific. We made an adjustment for duty drawback pursuant to section 772(d)(1)(B) of the Act.

Foreign Market Value

In order to determine whether there were sufficient sales of WSSP in the home market to serve as a viable basis for calculating FMV, we compared the volume of home market sales of WSSP to the volume of third country sales of the same product in accordance with section 773(a)(1)(B) of the Act. We found that the home market was viable for sales of WSSP for both SMP and PSP.

Based on petitioners' allegations, we investigated whether SMP and PSP had home market sales that were made at less than their costs of production (COP).

If over 90 percent of respondent's sales were at prices above the COP, we did not disregard any below-cost sales because we determined that the respondent's below-cost sales were not made in substantial quantities over an extended period of time. If between 10 and 90 percent of a respondent's sales were at prices above the COP, we disregarded only the below-cost sales. Where we found that more than 90 percent of respondent's sales were at prices below the COP, we disregarded all sales and calculated FMV based on constructed value (CV). In such cases, we determined that the respondent's below-cost sales were made in substantial quantities over an extended period of time.

A. SMP

In order to determine whether home market prices were above the COP, we calculated the COP based on the sum of SMP's cost of materials, fabrication, general expenses, and packing. For those models determined to have a sufficient number of home market sales made at prices above the COP, we calculated FMV based on home market prices. For those models determined to have over 90 percent of home market sales made at prices below the COP, we based FMV on the product's CV.

We relied on the submitted COP and CV data, except in the following instances where the costs were not appropriately quantified or valued:

(1) For COP and CV, SMP originally allocated indirect overhead costs to direct cost centers based on the number of workers at each cost center. The Department requested that SMP revise its COP and CV data by allocating indirect overhead costs based on machine processing time for each cost center. SMP resubmitted its costs with indrect overhead allocated to direct cost centers based on depreciation, claiming that allocation based on machine processing time is improper. However, the Department believes that an allocation based on depreciation is an inappropriate methodology. Because SMP did not comply with the Department's request that the overhead be allocated based on machine processing time, as best information available (BIA), the Department increased both fixed and variable overhead costs of the revised submission by the largest percent difference in overhead costs for any one product, from the original submission to the revised submission.

(2) For COP and CV, the Department adjusted SMP's submitted general and administrative (G&A) expense calculation to include all amortization of deferred charges as reported in its financial statements, and to exclude miscellaneous expenses.

(3) For CV only, we reduced interest for an amount attributable to maintaining accounts receivable to avoid double counting imputed credit.

(4) We converted the submitted COP and CV data, which were based on actual weight, to theoretical weight by applying the submitted conversion factors.

When CV was used for FMV, in addition to the costs of materials and fabrication costs, we used the actual general expenses in accordance with section 773(e)(1)(B)(i) of the Act because they exceeded the statutory minimum of ten percent. For profit in CV, we applied eight percent of the combined cost of materials, fabrication, and general expenses, pursuant to section 773(e)(1)(B)(ii) of the Act, because the actual amount was less than the statutory minimum of eight percent.

For CV comparisons to purchase price sales, we made circumstance-of-sale adjustments for direct selling and credit expenses. For these adjustments, and for the offset to U.S. commissions, we used the class or kind averages reported in the CV database. We adjusted downward the reported home market direct selling expenses and adjusted upward the home market indirect selling expenses in order to account for certain advertising expenses which were misclassified as direct expenses.

In accordance with 19 CFR 353.58, we compared U.S. sales to home market sales made at the same level of trade, where possible. For SMP, we calculated FMV based on ex-factory and delivered prices to unrelated customers in the home market. We deducted foreign inland freight. In accordance with 19 CFR 353.56, we made circumstance-of-sale adjustments for testing expenses, advertising expenses, credit expenses, and commissions and banking fees. We recalculated credit because respondent used the incorrect date of shipment in its calculation. We disallowed reported advertising expenses as a direct expense for sales to end-users and reclassified these expenses as indirect advertising expenses. We added U.S. commissions and deducted from FMV the weight-average indirect selling expenses, including indirect advertising, up to the amount of the U.S. commission.

For price to price comparisons, we also made a circumstance-of-sale adjustment for the difference between VAT on home market sales and that which would have been collected on U.S. sales if the export sales had been taxed. We deducted home market packing costs and added U.S. packing costs. We also made an adjustment for difference in merchandise, in accordance with 19 CFR 353.57.

B. PSP

In order to determine whether home market prices were above the COP, we calculated the COP based on the sum of PSP's cost of materials, fabrication, general expenses, and packing. For those models determined to have a sufficient number of home market sales made at prices above the COP, we calculated FMV based on home market prices. For those models determine to have over 90 percent of home market sales made at prices below the COP, we based FMV on the poroduct's CV. No COP data was submitted for one product. Therefore, as BIA, we used the highest calculated margin for the sale of this product. We relied on the submitted COP and CV data except in the following instances where the costs were not appropriately quantified or valued:

(1) For COP and CV, PSP valued its submitted direct material costs using the price of steel purchased during the POI, rather than the requisition value of steel consumed as normally calculated in its accounting system. Additionally, some of the pipe produced by PSP during the POI utilized cold-rolled coil, rather than the less expensive hot-rolled coil. PSP's submitted direct material costs were based on the value of hot-rolled steel coil only. Therefore, the material costs are understated. As BIA, the Department increased the submitted direct material costs for COP and CV by the percent difference between the reported requisition value for cold-rolled steel coil (adjusted for yield and scrap value), and the weighted-average direct material cost for products using hot-rolled steel.

(2) For COP and CV, the Department adjusted PSP's submitted G&A expense calculation to include administrative expenses for export, and exclude investment related gains and losses, miscellaneous non-operating and extraordinary income and expense items, and the adjustment for duty drawback.

(3) The Department adjusted PSP's submitted COP interest expense calculation to include the amortization of debenture issuance costs, to exclude interest earned from investments deemed not to be short term, and to exclude the adjustment for duty drawback. For purchase price sales, we reduced interest for an amount attributable to maintaining accounts receivable to avoid double counting imputed credit included in CV. For ESP sales, we reduced interest for an amount attributable to maintaining accounts receivable and finished goods inventory since imputed credit and inventory carrying costs were included in CV.

(4) We converted the submitted COP and CV data, which were based on actual weight, to theoretical weight by applying the submitted conversion factors.

When CV was used for FMV, in addition to the cost of materials and fabrication, we used the actual general expenses in accordance with section 773(e)(1)(B)(i) of the Act when they exceeded the statutory minimum of ten percent. For profit in CV, we applied eight percent of the combined cost of materials, fabrication, and general expenses, pursuant to section 773(e)(1)(B)(ii) of the Act, because the actual amount was less than the statutory minimum of eight percent.

For CV comparisons to purchase price and ESP sales, we made circumstance-of-sale adjustments for direct selling and credit expenses. For these adjustments, we used the class or kind averages reported in the CV database.

In accordance with 19 CFR 353.58, we compared U.S. sales to home market sales made at the same level of trade, where possible. For PSP, we calculated FMV based on free-on-truck, delivered or delivered and unloaded pieces to both unrelated and related customers in the home market. We used PSP's sales to related customers because PSP, through an examination of its entire home market database, established that related party sales were at arm's length.

For both purchase price and ESP transactions, we made deductions for foreign inland freight. In accordance with 19 CFR 353.56, we made a circumstance-of-sale adjustment for the difference between VAT on home market sales and that which would have been collected on U.S. sales if the export sales had been taxed. We deducted home market packing costs and added U.S. packing costs.

For comparisons to purchase price sales, we made a circumstance-of-sale adjustments for credit expenses and direct selling expenses. We recalculated U.S. credit expense because respondent used the incorrect date of shipment in its calculation. We recalculated home market credit expenses on a customer-specific basis because respondent reported on average for all customers for the entire POI.

For comparisons to ESP sales, we deducted credit expenses and direct selling expenses. We also deducted from FMV the weighted-average home market indirect selling expenses, including inventory carrying costs, up to the amount of indirect selling expenses incurred on U.S. sales.

Currency Conversion

We made currency conversions based on the official exchange rates in effect on the dates of the U.S. sales as certified by the Federal Reserve Bank.

Verification

As provided in section 776(b) of the Act, we will verify the information used in making our final determination.

Suspension of Liquidation

In accordance with section 733(d)(1) of the Act, we are directing the Customs Service to suspend liquidation of all entries of WSSP from Korea that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. The Customs Service shall require a cash deposit or posting of a board equal to the estimated preliminary dumping margins, as shown below. This suspension of liquidation will remain in effect until further notice.

Producer/Manufacturer/exporter	Weighted-average margin percentage
Sammi Metal Products Co., Ltd	7.63
Pusan Steel Pipe Co., Ltd	13.30
All others	8.68

ITC Notification

In accordance with section 733(f) of the Act, we have notified the ITC of our determination. If our final determination is affirmative, the ITC will determine before the later of 120 days after the date of this preliminary determination or 45 days after our final determination whether these imports are materially injuring, or threaten material injury to, the U.S. industry.

Postponement of Final Determination

As stated above, in accordance with 19 CFR 353.20(b), respondents who account for a significant portion of the merchandise covered by this proceeding have requested that in the event of an affirmative preliminary determination the Department postpone the final determination. Accordingly, we are postponing the date of the final determination until not later than 135 days after the date of publication of this notice.

Public Comment

In accordance with 19 CFR 353.38, case briefs or other written comments in at least ten copies must be submitted to the Assistant Secretary for Import Administration no later than September 21, 1992, and rebuttal briefs, no later

than September 28, 1992. In accordance with 19 CFR 353.38(b), we will hold a public hearing, if requested, to afford interested parties an opportunity to comment on arguments raised in case or rebuttal briefs. Tentatively, the hearing will be held on September 30, 1992, at 9:30 a.m. at the U.S. Department of Commerce, room 3708, 14th Street and Constitution Avenue, NW., Washington, DC 20230. Parties should confirm by telephone the time, date, and place of the hearing 48 hours before the scheduled time.

Interested parties who wish to request a hearing, or to participate if one is requested, most submit a written request to the Assistant Secretary for Import Administration, U.S. Department of Commerce, room B-099, within ten days of the publication of this notice. Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; and (3) a list of the issues to be discussed. In accordance with 19 CFR 353.38(b), oral presentations will be limited to issues raised in the briefs.

This determination is published pursuant to section 733(f) of the Act and 19 CFR 353.15(a)(4).

Dated: June 15, 1992.

Alan M. Dunn,

Assistant Secretary for Import Administration.

[FR Doc. 92-14640 Filed 6-19-92; 8:45 am]

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[A-583-815]

Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Certain Welded Stainless Steel Pipes From Taiwan

AGENCY: Import Administration, International Trade Administration, Commerce.

EFFECTIVE DATE: June 22, 1992.

FOR FURTHER INFORMATION CONTACT: Bill Crow, Office of Antidumping Investigations, Office of Investigations, Import Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 377-0116.

PRELIMINARY DETERMINATION: We preliminarily determine that certain welded stainless steel pipes (WSSP) from Taiwan are being, or are likely to be, sold in the United States at less than fair value, as provided in section 733 of the Tariff Act of 1930, as amended (the Act). The estimated margins are shown in the "Suspension of Liquidation" section of this notice.

Case History

Since the notice of initiation on December 9, 1991 (56 FR 65043, December 13, 1991), the following events have occurred.

On January 2, 1992, the International Trade Commission (ITC) issued an affirmative preliminary determination.

On January 10, 1992, petitioners requested that the Department of Commerce (the Department) expand the POI. We received additional comments on this issue from petitioners as well as respondents. On March 13, 1992, the Department notified petitioners that the standard six-month POI would not be altered in this investigation.

On January 22, 1992, the Department presented its questionnaire to Chang Tieh Industry Company, Ltd. (CTI), Jaung Yuann Enterprise Company, Ltd. (JYE), Ta Chen Stainless Pipe Company, Ltd. (Ta Chen), and Yeun Chyang Industrial Company, Ltd. (YCI) who accounted for at least 60 percent of known sales to the United States during the period of investigation (POI), in accordance with 19 CFR 353.42(b).

The respondents submitted responses to the sales questionnaire in February and March, 1992. We issued supplemental sales questionnaires in February and March, 1992, and received the responses in March and April, 1992.

On March 13, 1992, petitioners alleged that Ta Chen and YCI were selling the subject merchandise in the home market at prices below the cost of production (COP). On March 20, 1992, petitioners alleged that CTI and JYE were selling the subject merchandise in the home market at prices below the cost of production. On April 7, 1992, the Department initiated COP investigations with respect to these four companies. The Department issued COP questionnaires to these companies on April 8, 1992, and received responses on May 14 and 15, 1992. The Department issued deficiency letters to these companies on May 27 and 28, 1992, and responses were received on June 3, 5, and 8, 1992. These deficiency responses were received too late to be used for purposes of this preliminary determination. We will analyze and verify the COP deficiency responses for use in the Department's final determination.

On April 2, 1992, petitioners requested that the Department postpone the preliminary determination in this investigation for 30 days in accordance with 19 CFR 353.15(c). Accordingly, on April 7, 1992, (57 FR 12911, April 14, 1992), we postponed the preliminary determination until May 27, 1992. On April 22, 1992, petitioners requested a further extension of the preliminary determination until June 15, 1992. On April 30, 1992, we postponed the preliminary determination until June 15, 1992 (57 FR 19602, May 7, 1992).

On June 15, 1992, respondent YCI requested that, in the event of an affirmative preliminary determination in this investigation, the Department postpone the final determination to 135 days after the date of the publication of the affirmative preliminary determination. See Postponement of Final Determination section of this notice.

Scope of Investigation

The merchandise subject to this investigation is welded austenitic stainless steel pipe (WSSP) that meets the standards and specifications set forth by the American Society for Testing and Materials (ASTM) for the welded form of chromium-nickel pipe designated ASTM A-312. The merchandise covered by the scope of the investigation also includes austenitic welded stainless steel pipes made according to the standards of other nations which are comparable to ASTM A-312.

WSSP is produced by forming stainless steel flat-rolled products into a tubular configuration and welding along the seam. WSSP is a commodity product generally used as a conduit to transmit liquids or gases. Major applications for WSSP include, but are not limited to, digester lines, blow lines, pharmaceutical lines, petrochemical stock lines, brewery process and transport lines, general food processing lines, automotive paint lines and paper process machines.

Imports of WSSP are currently classifiable under the following Harmonized Tariff Schedule (HTS) subheadings: 7306.40.1000, 7306.40.5010, 7306.40.5030, 7306.40.5050, and 7306.40.5070. Although these subheadings include both pipes and tubes, the scope of this investigation is limited to welded austenitic stainless steel pipes. Although the HTS subheadings are provided for convenience and customs purposes, our written description of the scope of this investigation is dispositive.

Period of Investigation

The period of investigation is June 1, 1991, through November 30, 1991.

Such or Similar Comparisons

We have determined for purposes of the preliminary determination that the product covered by this investigation comprises a single category of "such or

similar" merchandise. Where there were no sales of identical merchandise in the home market to compare to U.S. sales, we made similar merchandise comparisons on the basis of: (1) Specification/alloy; (2) nominal pipe size; (3) surface finish or coating; (4) wall thickness, and (5) end finish. We made adjustments for differences in the physical characteristics of the merchandise, in accordance with section 773(a)(4)(C) of the Act.

For CTI, JYE, and Ta Chen, we made sales comparisons on the basis of actual weight, the weight basis on which respondents reported that U.S. sales were made. YCI reported its prices on the basis of theoretical weight and its COP and constructed value (CV) data on the basis of actual weight. It has not reported a factor to convert actual to theoretical weight. Accordingly, for purposes of the preliminary determination, we have accepted the two different weight bases as reported by YCI. However, additional information has been requested on this issue and will be verified.

Fair Value Comparisons

To determine whether sales of WSSP from Taiwan to the United States were made at less than fair value, we compared the United States price (USP) to the foreign market value (FMV), as specified in the "United States Price" and "Foreign Market Value" sections of this notice.

United States Price

For CTI, JYE, and YCI, we based all USP on purchase price, and for Ta Chen we based some USP on purchase price, in accordance with section 772(b) of the Act, because the subject merchandise was sold to unrelated purchasers in the United States prior to importation and because exporter's sales price (ESP) methodology, in those instances, was not otherwise indicated.

In addition, for Ta Chen, where certain sales to the first unrelated purchaser took place after importation into the United States, we also based USP on ESP, in accordance with section 772(c) of the Act.

When we made price to price comparisons for each of the four respondents, in accordance with section 772(D)(1)(C) of the Act, we added to the USP the amount of value-added tax that would have been collected if the merchandise had not been exported. For CTI, JYE, and YCI, we also added duty drawback to the USP in accordance with section 772(d)(1)(B) of the Act. We did not allow Ta Chen's claim for a duty drawback adjustment as it was not in accordance with our normal methodology.

A. CTI

We calculated purchase price based on free-on-rail or CIF sales to unrelated customers. We made deductions, where appropriate, for foreign brokerage, foreign inland freight, ocean freight, Taiwan harbor export duty, and marine insurance, in accordance with section 772(d)(2) of the Act.

B. JYE

We calculated purchase price based on CIF sales to unrelated customers. We made deductions, where appropriate, for foreign brokerage, foreign inland freight, ocean freight, Taiwan harbor export duty, and marine insurance, in accordance with section 772(d)(2) of the Act.

C. Ta Chen

We calculated purchase price based on C&I, FOB U.S. port and delivered prices to unrelated customers. We excluded from our analysis certain sales through a related agent because these sales were made in small quantities. We made deductions, where appropriate, for foreign brokerage, foreign inland freight, ocean freight, marine insurance, Taiwan harbor export duty, U.S. duty, U.S. brokerage, and U.S. inland freight. We also deducted discounts, where appropriate.

We calculated ESP based on fob U.S. warehouse and delivered prices. We made deductions, where appropriate, for foreign brokerage, foreign inland freight, ocean freight, marine insurance, Taiwan harbor export duty, U.S. duty, U.S. brokerage, and U.S. inland freight. We also made deductions, where appropriate, for discounts. In accordance with section 772(e)(2) of the Act, we deducted, where appropriate, credit expenses, indirect selling expenses, including inventory carrying costs, and commissions. We recalculated U.S. credit expenses because respondent had incorrectly reported the average U.S. interest rate for the POI. We recalculated indirect selling expenses incurred for ESP sales by Ta Chen's subsidiary in the United States by removing non-operating income/loss from total expense, by reallocating total land interest expense over all sales, and by disallowing the inclusion of extraordinary sales not recorded as ESP transactions in the allocation. We calculated indirect selling expenses incurred in the home market on behalf of ESP sales, as BIA.

D. YCI

We calculated purchase price based on CIF and C&F prices. We made deductions, where appropriate, for foreign brokerage, foreign inland freight, ocean freight, Taiwan harbor export duty, and marine insurance, in accordance with section 772(d)(2) of the Act.

Foreign Market Value

In order to determine whether there were sufficient sales of WSSP in the home market to serve as a viable basis for calculating FMV, we compared the volume of home market sales of WSSP to the volume of third country sales of the same product, in accordance with section 773(a)(1)(B) of the Act. All four companies had viable home markets with respect to sales of WSSP during the POI.

In accordance with 19 CFR 353.58, we compared U.S. sales to home market sales made at the same level of trade, where possible.

Based on petitioners' allegations, we investigated whether the four respondent companies had home market sales that were made at less than their COP.

If over 90 percent of a respondent's sales were at prices above the COP, we did not disregard any below-cost sales because we determined that the respondent's below-cost sales were not made in substantial quantities over an extended period of time. If between ten and 90 percent of a respondent's sales were at prices above the COP, we disregarded only the below-cost sales. Where we found that more than 90 percent of respondent's sales were at prices below the COP, we disregarded all sales and calculated FMV based on CV. In such cases, we determined that the respondent's below-cost sales were made in substantial quantities over an extended period of time.

For CTI and JYE, because we found that no home market sales of the subject merchandise for respondent were made at prices below the COP, we compared U.S. sales of the subject merchandise to FMV based on home market prices. For Ta Chen and YCI, we based FMV on both home market prices and CV.

A. CTI

In order to determine whether home market prices were above the COP, we calculated the COP based on the sum of CTI's cost of materials, fabrication, general expenses, and packing. The submitted COP data was relied upon, except in the following instance where the costs were not appropriately quantified or valued:

1. Interest expenses were recalculated without the expenses incurred by the related party because the parties did not meet the requirements of consolidation.

We calculated FMV based on free-on-rail prices to unrelated customers in the home market. We were unable to compare U.S. sales to home market sales made at the same level of trade because respondent failed to provide the appropriate information. We made deductions, where appropriate, for inland freight. We deducted home market packing costs and added U.S. packing costs, in accordance with section 773(a)(1) of the Act.

Pursuant to 19 CFR 353.56, we made circumstance-of-sale adjustments, where appropriate, for differences in credit expenses. We also made a circumstance-of-sale adjustment for differences in the amount of value-added tax. Lastly, we made an adjustment for physical differences in merchandise, where appropriate, in accordance with 19 CFR 353.57.

B. JYE

In order to determine whether home market prices were above the COP, we calculated the COP based on the sum of JYE's cost of materials, fabrication, general expenses, and packing. The submitted COP data was relied upon, except in the following instances where the costs were not appropriately quantified or valued:

1. Direct materials were increased to eliminate a rebate included in materials.

2. G&A expenses were revised to correct a clerical error.

3. Interest expenses were recalculated without the expenses incurred by the related party because the parties did not meet the requirements for consolidation.

We calculated FMV based on CIF prices to unrelated customers in the home market. We were unable to compare U.S. sales to home market sales of identical merchandise made at the same level of trade because respondent failed to provide the appropriate information. Accordingly, we used all sales of identical merchandise for purposes of computing FMV. We made deductions, where appropriate, for inland freight. We deducted home market packing costs and added U.S. packing costs, in accordance with section 773(a)(1) of the Act.

Pursuant to 19 CFR 353.56, we made circumstance-of-sale adjustments, where appropriate, for differences in credit expenses. We added U.S. commissions and deducted from FMV the weighted-average indirect selling expenses, up to the amount of the U.S. commission, in accordance with 19 CFR 353.56(b)(2). We also made a circumstance-of-sale adjustment for differences in the amount of value-added tax. Lastly, we made an adjustment for physical differences in merchandise, where appropriate, in accordance with 19 CFR 353.57.

C. Ta Chen

We excluded certain sales of secondary quality merchandise from our analysis because these were made outside of the ordinary course of trade.

In order to determine whether home market prices were above the COP, we calculated the COP based on the sum of Ta Chen's cost of materials, fabrication, general expenses, and packing. The submitted COP and CV data were relied upon, except in the following instances where the costs were not appropriately quantified or valued:

1. For COP and CV, the Department used October material costs for November as best information available because a significant change in materials costs was not explained by the adoption of new standards.

1. For COP and CV, G&A expenses were revised to include all general expenses which had not been specifically included elsewhere as selling expenses or movement charges.

To calculate CV, in addition to the cost of materials and fabrication, we used the actual general expenses in accordance with section 773(e)(1)(B)(i) of the Act, because they exceeded the statutory minimum of ten percent. For profit in CV, we applied eight percent of the combined cost of materials, fabrication, and general expenses, pursuant to section 773(e)(1)(B)(ii) of the Act, because the actual amount was less than the statutory minimum of eight percent.

We were unable to compare U.S. sales to home market sales of identical merchandise made at the same level of trade because respondent failed to provide the appropriate information. From FMV, we deducted inland freight and discounts. We deducted home market packing costs and added U.S. packing costs in accordance with section 773(a)(1) of the Act.

For both home market price and CV comparisons to purchase price sales, we made circumstance-of-sale adjustments for credit expenses, warranty expenses, bank handling charges, and commissions in accordance with 19 CFR 353.56. We recalculated U.S. credit expenses because respondent incorrectly calculated the average home market interest rate for the POI. Since Ta Chen's subsidiary collects payment for many purchase price sales on behalf of the parent company, we applied the U.S. interest rate which we recalculated for ESP sales as a circumstance-of-sale adjustment for purchase price sales as BIA. We recalculated home market credit expenses because respondent incorrectly calculated the average home market interest rate for the POI. Because Ta Chen failed to adequately explain warranty expenses in light of damaged merchandise discovered after exportation, as BIA we used the export losses reported in Ta Chen's financial statements. We made adjustments, where appropriate, for commissions paid to unrelated parties in the United States. We offset these commissions by the amount of indirect selling expenses incurred in the home market by Ta Chen. We recalculated indirect selling expenses incurred in the home market by reallocating certain expenses as G&A expenses rather than selling expenses. For price to price comparisons only, we also made a circumstance-of-sale adjustment for differences in the amount of value-added tax.

For both home market price and CV comparisons to ESP sales, we made the following deductions in accordance with 19 CFR 353.56. We recalculated home market credit expenses because respondent incorrectly calculated the average home market interest rate for the POI. Because Ta Chen failed to adequately explain warranty expenses in light of damaged merchandise discovered after exportation, as BIA we used the export losses reported in Ta Chen's financial statements. We deducted from FMV the weighted-average home market indirect selling expenses, including inventory carrying costs, up to the amount of indirect selling expenses incurred on U.S. sales. We also made adjustments, where appropriate, for commissions said to unrelated parties in the United States. We offset these commissions by the amount of indirect selling expenses incurred in the home market by Ta Chen, capped by the use of U.S. commissions and indirect selling expenses for U.S. sales. We recalculated indirect selling expenses incurred in the home market by reallocating certain expenses as G&A expenses rather than selling expenses. For price to price comparisons only, we also made a circumstance-of-sale adjustment for differences in the amount of value-added tax.

Lastly, for both purchase price and ESP sales, we made an adjustment for physical differences in merchandise, where appropriate for price to price comparisons, in accordance with 19 CFR 353.57.

D. YCI

In order to determine whether home market prices were above the COP, we calculated the COP based on the sum of YCI's cost of materials, fabrication, general expenses, and packing. The submitted COP and CV data were relied upon, except in the following instances where the costs were not appropriately quantified or valued:

1. For COP and CV, G&A expenses were revised to include all general expenses which had not been specifically included elsewhere as selling expenses or movement charges. The revised amount was allocated as a percent of cost of sales.

2. For COP and CV, interest expenses were recalculated as a percent of cost of sales in the 1991 financial statements. For CV, interest expenses were reduced by an amount attributed to maintaining trade receivables and finished goods inventory since imputed credit and inventory holding costs were included in CV.

To calculate CV, in addition to the cost of materials and fabrication, we used the actual general expenses, in accordance with section 773(e)(1)(B)(i) of the Act, because they exceeded the statutory minimum of ten percent. For profit in CV, we applied eight percent of the combined cost of materials, fabrication, and general expenses, pursuant to section 773(e)(1)(B)(ii) of the Act, because the actual amount was less than the statutory minimum of eight percent.

Based on the information provided by respondent, we were unable to compare U.S. sales to home market sales made at the same level of trade. From FMV, we deducted inland freight and discounts. We deducted home market packing costs and added U.S. packing costs in accordance with section 773(a)(1) of Act.

In accordance with 19 CFR 353.56, we made circumstance-of-sale adjustments for price-to-price and CV comparisons for credit expenses and bank handling charges. We recalculated both U.S. and home market credit because respondent incorrectly calculated an average interest rate for the POI. For price-to-price comparisons only, we also made a circumstance-of-sale adjustment for differences in the amount of value-added tax.

Lastly, for price to price comparisons, we made an adjustment for physical differences in merchandise, where appropriate, in accordance with 19 CFR 353.57. We calculated two such adjustments which were missing from the product concordance based on BIA.

Currency Conversion

We made currency conversions based on the official exchange rates in effect on the dates of the U.S. sales as certified by the Federal Reserve Bank.

Verification

As provided in section 776(b) of the Act, we will verify the information used in making our final determination.

Critical Circumstances

Petitioners allege that "critical circumstances" exist, within the meaning of section 733(e) of the Act, with respect to imports of WSSP from Taiwan. Section 733(e)(1) of the Act provides that critical circumstances exist if we determine that there is a reasonable basis to believe or suspect that:

(A)(i) There is a history of dumping in the United States or elsewhere of the class or kind of merchandise which is the subject of the investigation, or

(ii) The person by whom, or for whose account, the merchandise was imported knew or should have known that the exporter was selling the merchandise which is the subject of the investigation at less than its fair value, and

(B) There have been massive imports of the class or kind of merchandise which is the subject of the investigation over a relatively short period.

It has been the Department's practice to consider estimated margins of 25 percent or greater on sales to unrelated parties and estimated margins of 15 percent or greater on sales to related parties as sufficient proof to impute knowledge of dumping. Since for all companies the weighted-average dumping margins fall below these percentages, critical circumstances do not exist. Accordingly, it is not necessary to determine if massive imports exist.

With respect to firms covered by the "All Other" rate, we have determined that imports of WSSP have not been massive over a relatively short period of time. As such, we determine that critical circumstances do not exist for those firms.

Suspension of Liquidation

In accordance with section 733(d)(1) of the Act, we are directing the Customs Service to suspend liquidation of all entries of WSSP from Taiwan, except those of CTI, that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. The Customs Service shall require a cash deposit or posting of a bond equal to the estimated preliminary dumping margins, as shown below. The suspension of liquidation will remain in effect until further notice. The weighted-average dumping margins are as follows:

Manufacturer/producer/exporter	Weighted-average margin percentage
Chang Tieh Industry Co., Ltd	0.00
Jaung Yuann Enterprise Co., Ltd	3.58
Ta Chen Stainless Pipe Co., Ltd	12.11
Yeun Chyang Industrial Co., Ltd	2.31
All Others	6.49

ITC Notification In accordance with section 733(f) of the Act, we have notified the ITC of our determination.

If our final determination is affirmative, the ITC will determine whether these imports are materially injuring, or threaten material injury to, the U.S. industry before the later of 120 days after the date of this preliminary determination or 45 days after our final determination.

Postponement of Final Determination

As stated above, in accordance with 19 CFR 353.20(b), YCI, which accounts for a significant portion of the merchandise covered by this proceeding, has requested that in the event of an affirmative determination the Department postpone the final determination. Accordingly, we are postponing the date of the final determination until not later than 135 days after the date of publication of this notice.

Public Comment

In accordance with 19 CFR 353.38, case briefs or other written comments in at least ten copies must be submitted to the Assistant Secretary for Import Administration no later than September 22, 1992, and rebuttal briefs no later than September 29, 1992. In accordance with 19 CFR 353.38(b), we will hold a public hearing, if requested, to give interested parties an opportunity to comment on arguments raised in case or rebuttal briefs. Tentatively, the hearing will be held on October 1, 1992, at 9:30 a.m. at the U.S. Department of Commerce, room 3708, 14th Street and Constitution Avenue, NW., Washington, DC 20230. Parties should confirm by telephone the time, date, and place of the hearing 48 hours before the scheduled time.

Interested parties who wish to request a hearing must submit a written request to the Assistant Secretary for Import Administration, U.S. Department of Commerce, room B-099, within ten days

of the publication of this notice in the **Federal Register**. Requests should contain (1) The party's name, address, and telephone number; (2) the number of participants; and (3) a list of the issues to be discussed. In accordance with 19 CFR 353.38(b), oral presentations will be limited to issues raised in the briefs.

This determination is published pursuant to section 733(f) of the Act (19 U.S.C. 1673(f)) and 19 CFR 353.15.

Dated: June 15, 1992.

Alan M. Dunn,

Assistant Secretary for Import Administration.

[FR Doc. 92-14641 Filed 6-19-92; 8:45 am]

BILLING CODE 3510-DS-M

[C-489-502]

Certain Welded Carbon Steel Pipe and Tube Products From Turkey Determination Not To Revoke Countervailing Duty Order

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

ACTION: Notice of determination not to revoke countervailing duty order.

SUMMARY: The Department of Commerce is notifying the public of its determination not to revoke the countervailing duty order on certain welded carbon steel pipe and tube products from Turkey.

EFFECTIVE DATE: June 22, 1992.

FOR FURTHER INFORMATION CONTACT: Lorenza Olivas or Michael Rollin, Office of Countervailing Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone (202) 377-2786.

SUPPLEMENTARY INFORMATION: On March 13, 1992, the Department of Commerce ("the Department") published in the **Federal Register** (57 FR 8862) its intent to revoke the countervailing duty order on certain welded carbon steel pipe and tube products from Turkey (51 FR 7984; March 7, 1986).

In accordance with 19 CFR 335.25(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 consecutive anniversary month. We have not received a request for an administrative review of the order for at least four consecutive annual anniversary months.

On March 30, 1992, petitioners objected in a timely manner to our intent to revoke the order. Therefore, we no longer intend to revoke the order.

This notice is in accordance with 19 CFR 355.25(d).

Dated: June 12, 1992

Joseph A. Spetrini,

Deputy Assistant Secretary for Compliance.

[FR Doc. 92-14642 Filed 6-19-92; 8:45 am]

BILLING CODE 3510-DS-M

National Institute of Standards and Technology

[Docket No. 920541-2141]

Membership in Open Systems Interconnection Testing and Certification Policy Council

AGENCY: National Institute of Standards and Technology (NIST), Commerce.

ACTION: Notice; request for comments.

SUMMARY: This notice announces that the National Institute of Standards and Technology (NIST) is considering becoming a member of the Open Systems Interconnection (OSI) Testing and Certification Policy Council and request public comments as to advisability of its doing so.

DATES: Written comments will be considered if received at the address specified in the ADDRESS section below by September 8, 1992. Commenters must include their name, address, telephone/facsimile number(s) and affiliation, if any.

ADDRESSES: Comments should be addressed to Mr. Michael D. Hogan, Computer Systems Laboratory, National Institute of Standards and Technology, Technology Building, room B368, Gaithersburg, MD 20899.

FOR FURTHER INFORMATION CONTACT: Mr. Michael D. Hogan, telephone 301-975-2926, facsimile 301-948-1748.

SUPPLEMENTARY INFORMATION: The OSI Testing and Certification Policy Council was established in May 1991 by the Computer Business Equipment Manufacturers Association and the Corporation for Open Systems as a voluntary organization of public and private sector entities to provide a North American focal point for the development, coordination and harmonization of policy as it pertains to worldwide OSI testing and certification. The objective of the Council is to accelerate the deployment of OSI products through the establishment of mutual recognition between North American and other national/region test and certification programs regarding the acceptance of standards, test suites, accreditation, testing and certification. The Council's charter is reprinted at the end of this notice.

The Canadian Interest Group on Open Systems became the third member of the Council in February 1992.

From the Council's inception, NIST has participated in Council meetings and activities in furtherance of its responsibilities under section 3(b)(1) of the Computer Security Act of 1987, 15 U.S.C. 278g-3(b)(1), to assist the private sector in using and applying the results of NIST's computer standards programs and activities. The NIST conducts a variety of ongoing activities, including testing, to develop and implement OSI standards.

The NIST is now considering becoming a member of the Council. There are no costs associated with becoming a member. Council membership by NIST would foster public and private sector cooperation in obtaining world-wide harmonization of testing for OSI products. If NIST becomes a member, the Council's ability to harmonize world-wide testing for OSI products should be enhanced because other national/regional test and certification programs will more readily recognize the Council as being representative of North American public and private sector interests.

Dated: June 17, 1992.

John W. Lyons,

Director.

OSI Testing and Certification Policy Council Charter

1. Mission

The OSI Testing and Certification Policy Council is a voluntary organization of public and private sector entities with the following mission:

"To provide the North American focal point for the development, coordination and harmonization of policy as it pertains to worldwide OSI testing and certification."

2. Objective

To accelerate the deployment of OSI products through the establishment of mutual recognition between the North American and other national/regional test and certification programs, regarding the acceptance of standards, test suites, accreditation, testing and certification.

3. Membership Eligibility

The membership in the Council is open to North American organizations representing industry consensus groups[1] and relevant

[1] Membership is open to organizations that can contribute to the objectives and mission of the Council.

government activities with an interest in the objectives of the Council. The membership implies a commitment to contribute actively to the work of the Council.

A member organization shall identify in writing the names of its official representatives. Each member organization may have three seats on the Council, with one vote per organization.

4. Organization

4.1. Mode of Operation

The OSI Testing and Certification Policy Council shall generally operate in member meetings called approximately once every two months. Members may invite guests as they deem necessary. The meetings shall be chaired on an annual rotating basis to be determined by the representatives of the member organizations.

The organization to perform the secretariat functions will be determined by the chair. The specific administration functions to be performed include meeting arrangements, archiving, handling of inquiries, publication of materials, media relations. Whenever possible, all external relations issues shall be directed to the current chair.

4.2. Meetings

Meetings shall be called and noticed by the current chair. Special meetings may also be called at any time as follows:

—By the chair, or

—The lesser of; 50% of the membership or three other members.

The Council may from time to time decide to form task forces on specific subjects related to the policy. The Council shall appoint a chair of each task force who will be responsible before the Council for planning and coordination of the task, and for the delivery of results.

4.3. Policy Submissions

In addition to task forces, any member of the Council shall be encouraged to submit proposals for the Policy Statements and/or actions. The proposals shall be submitted by the initiating organization at least three weeks prior to the next meeting and directed to all members on record, and to the current secretariat for inclusion in the agenda. A submission shall include, as a minimum, its title, proposed contents of the statement or work item, and a brief justification of the proposal. All submissions, whether accepted or not, shall be placed in the Council's archives. Urgent submissions may be delivered at a meeting and processed at the Council's discretion.

4.4. Approval of Policy

A motion on a Policy Statement shall be approved by a unanimous vote of all Council members. All other motions shall be approved by a simple majority of those who are present at the meeting, each member organization having one vote or having the right to abstain.

4.5. Amendments

This charter shall be amended by two-thirds vote of the current member organizations at any properly called and noticed Council meeting at which a quorum is present (50% of membership).

5. Termination of Membership

Membership of the Council is terminated in one of two ways:

• A member advises the Council of its intent to terminate, or

• The Council votes to terminate a membership based upon non-attendance at three consecutive Council meetings.

[FR Doc. 92-14643 Filed 6-19-92; 8:45 am]

BILLING CODE 3510-CN-M

National Oceanic and Atmospheric Administration

Gulf of Mexico Fishery Management Council; Public Meetings

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

The Gulf of Mexico Fishery Management Council (Council) and its Committees will meet on July 13–16, 1992, at the Cheeca Lodge, Mile Marker 82, Post Office Box 527, Islamorada, FL, telephone: (305) 664–4661. The agenda is as follows:

Council

The Council will convene on July 15 at 8:30 a.m. and recess at 5 p.m. Council agenda items and the times allocated for discussion are as follows:

From 8:45 a.m. to 11 a.m.: Hear public testimony on the Tortugas Shrimp Sanctuary and Grouper Fishery Areas including Stressed Area Changes and Longline/Buoy Area Changes;

Note: Testimony cards must be turned in to staff before the start of public testimony;

From 11 a.m. to 11:30 a.m.: Receive the Shrimp Management Committee report;

From 1 p.m. to 4:45 p.m.: Receive the Reef Fish Management Committee report; and

From 4:45 p.m. to 5 p.m.: Receive the Advisory Panel (AP) Selection Committee report (in **Closed Session**).

The Council will reconvene at 8:30 a.m. on July 16 and continue with its agenda as follows:

From 8:30 a.m. to 10:15 a.m.: Discuss the Florida Keys National Marine Sanctuary;

From 10:15 a.m. to 11:30 a.m.: Receive reports from Committees:

1. Budget Committee (10:15 a.m. to 10:45 a.m.);

2. Mackerel Management Committee (10:45 a.m. to 11 a.m.);

3. Habitat Protection Committee (11 a.m. to 11:15 a.m.);

4. Administrative Policy Committee (11:15 a.m. to 11:30 a.m.); and

From 11:30 a.m. to 12 p.m.: Receive Enforcement and Director's reports. Adjournment will be at 12 p.m.

Committees

The AP Selection Committee will meet on July 13 at 1 p.m. (in **Closed Session**). The Budget Committee, the Mackerel Management Committee, and the Administrative Policy Committee will convene their meetings at 1 p.m. and adjourn at 5:15 p.m. The meetings will reconvene on July 14 at 8 a.m. with the Habitat Protection Committee, the Shrimp Management Committee, the Reef Fish Management Committee reports. The Committee meetings will adjourn at 5 p.m.

For more information contact Wayne E. Swingle, Executive Director, Gulf of Mexico Fishery Management Council, 5401 West Kennedy Boulevard, suite 331, Tampa, FL; telephone: (813) 228–2815.

Dated: June 16, 1992.

Alfred J. Bilik,

Acting Director of Office Fisheries Conservation and Management National Marine Fisheries Service.

[FR Doc. 92-14552 Filed 6-19-92; 8:45 am]

BILLING CODE 3510-22-M

Gulf of Mexico Fishery Management Council; Addition to Public Meeting Agenda

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

Notice of and the agenda for a public meeting of the Gulf of Mexico Fishery Management Council's Mississippi/Louisiana Habitat Protection Advisory Panel were originally published in the **Federal Register** at 57 FR 24473 on June 9, 1992. Another item has been recently added to the agenda. The addition is noted below; all other information originally published on June 9, 1992, remains unchanged.

Addition

Discuss the responsibilities and activities of the Louisiana Department of Wildlife and Fisheries' Habitat Conservation Division.

For more information contact Wayne E. Swingle, Gulf of Mexico Fishery Management Council, 5401 West Kennedy Boulevard, suite 331, Tampa, FL; telephone: (813) 228–2815.

Dated: June 16, 1992.

Alfred J. Bilik,

Acting Director of Office Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 92-14553 Filed 6-19-92; 8:45 am]

BILLING CODE 3510-22-M

Western Pacific Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

The Western Pacific Fishery Management Council's Scientific and Statistical Committee (SSC) will hold a meeting on June 29–30, 1992, at the Il Fresco Restaurant, Ward Centre, 1200 Ala Moana Boulevard, Honolulu, HI. The meeting will begin at 8 a.m., on each day. The agenda is as follows:

Discussion and recommendations to the Council regarding:

Oahu Creel Survey results and the data amendment to Pelagics Fishery Management Plan (FMP);

Crustaceans: Status of the Northwestern Hawaiian Islands (NWHI) lobster fishery and 1992 quota management program;

Bottomfish: Status of the NWHI bottomfish fishery (1991 annual report), limited entry and regulatory amendment for protected species workshop for the NWHI Mau Zone, extension of fishing moratorium at Hancock Seamounts;

Pelagics: Status of fishery (1991 annual report), status of request to modify longline area closure, future of Hawaii longline moratorium, limited entry/moratorium for non-longline Hawaii fisheries, status of tuna-inclusion amendment, and status of amendment that defines longlines and requires provisions for observers and vessel tracking system;

Program Planning: Discuss limited entry and permit transferability issues, blue marlin workshop, billfish and tuna research; and

Native Rights: Status of amendment to Pelagics FMP establishing native rights, status of legal opinion for American Samoa, Guam and the Northern Mariana Islands.

For more information contact Kitty M. Simonds, Executive Director, Western Pacific Fishery Management Council, 1164 Bishop Street, suite 1405, Honolulu, HI 96813; telephone: (808) 523–1368; fax: (808) 526–0824.

Dated: June 16, 1992.

Alfred J. Bilik,

Acting Director of Office Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 92–14554 Filed 6–19–92; 8:45 am]

BILLING CODE 3510-22-M

Western Pacific Fishery Management Council; Public Meetings

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

The Western Pacific Fishery Management Council (Council) will hold its 77th public meeting on June 30 and July 1–2, 1992. The Council will meet on July 1–2 beginning at 8 a.m. each day, in the Ala Moana Hotel, 410 Atkinson Drive, Honolulu, HI.

On June 30, the Council's Standing Committees will meet in either the Hawaii Department of Land and Natural Resource Boardroom, Kalanimoku Building Boardroom, 1151 Punchbowl Street, Honolulu, HI, or the Hawaii Maritime Center, Pacific Room, Pier 7, Honolulu Harbor, Honolulu, HI (call Council for details on times and location).

Draft Council Agenda: Receive reports from Council Members and representatives of fishery agencies and organizations. Receive reports on domestic and foreign fishing enforcement and fishery management plans. Committees will consider the following items.

Crustaceans: (1) Status of the Northwestern Hawaiian Islands (NWHI) lobster fishery (1991 annual report and research results); and (2) 1992 quota management program.

Bottomfish: (1) Status of NWHI bottomfish fishery (1991 annual report); (2) limited entry and regulatory amendment for protected species workshop for NWHI Mau Zone; and (3) extension of fishing moratorium at Hancock Seamounts.

Pelagics: (1) Status of fishery (1991 annual report); (2) status of request to modify longline area closure; (3) planning for amendments that will (a) supersede the current Hawaii longline moratorium, and (b) address limited entry or moratorium for non-longline Hawaii fisheries; (4) status of tuna-inclusion amendment; (5) status of amendment that defines longlines, requires provisions for observers and vessel tracking system on longline vessels.

Program Planning: (1) Discussion of mandatory reporting of catch and effort by all user groups catching Pelagic Management Unit Species; (2) permit transferability issues; (3) blue marlin workshop; and (4) billfish and tuna research and management.

Fishery Rights of Indigenous People: Status of amendment to Pelagics FMP establishing native rights; (2) status of legal opinion for American Samoa, Guam and Northern Mariana Islands.

Other

(1) Administrative matters (incl. revision of SOPP); and (2) other business. There will be opportunity for public comment regarding each topic, and decision-making may follow.

For more information contact Kitty M. Simonds, Executive Director, Western Pacific Fishery Management Council, 1164 Bishop Street, suite 1405, Honolulu, HI 96813; telephone: (808) 523–1368; fax: (808) 526–0824.

Dated: June 16, 1992.

Alfred J. Bilik,

Acting Director of Office Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 92–14555 Filed 6–19–92; 8:45 am]

BILLING CODE 3510-22-M

DEPARTMENT OF DEFENSE

Public Information Collection Requirement Submitted to OMB for Review

ACTION: Notice.

The Department of Defense has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Title, Applicable Form, and Applicable OMB Control Number: Defense FAR Supplement, Subpart 223.70, Hazardous Waste Disposal; and section 252.223–7005; OMB Control Number 0704–0343.

Type of Request: Extension.

Average Burden Hours/minutes Per Response: 30 minutes.

Responses Per Respondent: 1.

Number of Respondents: 45.

Annual Burden Hours: 22.5.

Annual Responses: 45.

Needs and Uses: This requirement provides for the collection of information from contractors performing offsite hazardous waste treatment or disposal services for DoD, to verify that such contractors have adequate liability insurance or financial assurance to cover sudden and non-sudden accidental occurrences, in accordance with section 331 of the FY 1992 DoD Authorization Act (Pub. L. 102–190).

Affected Public: Businesses or other for-profit organizations; Small businesses or organizations.

Frequency: On occasion.

Respondents Obligation: Mandatory.

Desk Officer: Mr. Peter N. Weiss. Written comments and recommendations on the proposed information collection should be sent to Mr. Weiss at the Office of Management and Budget, Desk Officer for DoD, room 3235, New Executive Office Building, Washington, DC 20503.

DOD Clearance Officer: Mr. William P. Pearce. Written requests for copies of the information collection proposal should be sent to Mr. Pearce, WHS/

DIOR, 1215 Jefferson Davis Highway, suite 1204, Arlington, Virginia 22202-4302.

Dated: June 17, 1992.

L. M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 92-14587 Filed 6-19-92; 8:45 am]

BILLING CODE 3810-01-M

Department of the Air Force

Privacy Act of 1974; Delete and Amend Systems of Records

AGENCY: Department of the Air Force, DOD.

ACTION: Delete and amend systems of records.

SUMMARY: The Department of the Air Force proposes to delete three and amend 12 existing systems of records in its inventory of record systems subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended.

DATES: The deleted systems are effective June 22, 1992. The amended systems will be effective July 22, 1992, unless comments are received which result in a contrary determination.

ADDRESS: Send any comments to the Air Force Access Programs Manager, SAF/AAIA, The Pentagon, Washington, DC 20330-1000.

FOR FURTHER INFORMATION CONTACT: Mr. James H. Gibson, at (703) 697-3491 or DSN: 227-3491.

SUPPLEMENTARY INFORMATION: The Department of the Air Force record systems notices subject to the Privacy Act of 1974, as amended, (5 U.S.C. 552a), have been published in the **Federal Register** as follows:

50 FR 22332 May 29, 1985 (DOD Compilation, changes follow)
50 FR 24672 Jun. 12, 1985
50 FR 25737 Jun. 21, 1985
50 FR 46477 Nov. 08, 1985
50 FR 50337 Dec. 10, 1985
51 FR 4531 Feb. 05, 1986
51 FR 7317 Mar. 05, 1986
51 FR 16735 May 06, 1986
51 FR 18927 May 23, 1986
51 FR 41382 Nov. 14, 1986
51 FR 44332 Dec. 09, 1986
52 FR 11845 Apr. 13, 1987
53 FR 24354 Jun. 28, 1988
53 FR 45800 Nov. 14, 1988
53 FR 50072 Dec. 13, 1988
53 FR 51301 Dec. 21, 1988
54 FR 10034 Mar. 09, 1989
54 FR 43450 Oct. 25, 1989
54 FR 47550 Nov. 15, 1989
55 FR 21770 May 29, 1990
55 FR 21900 May 30, 1990 (Updated Mailing Addresses)
55 FR 27868 Jul. 06, 1990
55 FR 28427 Jul. 11, 1990
55 FR 34310 Aug. 22, 1990
55 FR 38126 Sep. 17, 1990
55 FR 42625 Oct. 22, 1990
55 FR 52072 Dec. 19, 1990
56 FR 1990 Jan. 18, 1991
56 FR 5804 Feb. 13, 1991
56 FR 12713 Mar. 27, 1991
56 FR 23054 May 20, 1991
56 FR 23876 May 24, 1991
56 FR 26800 Jun. 11, 1991
56 FR 31394 Jul. 10, 1991 (Updated Index Guide)
56 FR 32181 Jul. 15, 1991
56 FR 63718 Dec. 05, 1991
57 FR 1907 Jan. 16, 1992

The deleted and amended systems are not within the purview of subsection (r) of the Privacy Act (5 U.S.C. 552a), as amended, which requires the submission of an altered system report. The specific changes to the systems of records being amended are set forth below, followed by the systems of records notices published in their entirety.

Dated: June 10, 1992.

L. M. Bynum,

Alternate OSD Federal Register Liaison Office, Department of Defense.

Deletions

F035 SAC C

SYSTEM NAME: Public Affairs Personnel Background Record, (50 FR 22421, May 29, 1985).

Reason: System is no longer needed. There are no plans to reinstate this system in the future.

F050 SAC A

SYSTEM NAME: ADP Training Management System, (51 FR 44336, December 9, 1986).

Reason: System is no longer needed. There are no plans to reinstate this system in the future.

F050 SAC C

SYSTEM NAME: Operation Personnel Training Management, (50 FR 22457, May 29, 1985).

Reason: System is no longer needed. There are no plans to reinstate this system in the future.

Amendments:

F035 AF MP D

SYSTEM NAME:

Officer Effectiveness Report (OER)/Airman Performance Report (APR) Appeal Case Files, (50 FR 44333, December 9, 1986).

CHANGES:

SYSTEM NAME:

Delete current name and replace with "Officer Performance Report (OPR)/Enlisted Performance Report (EPR) Appeal Case Files."

SYSTEM LOCATION:

Delete entry and replace with "Air Force Military Personnel Center (AFMPC), Randolph Air Force Base, TX 78150-6001; Air Reserve Personnel Center (ARPC), Denver, CO 80280-5000, and Consolidated Base/Reserve Personnel Offices (CBPO/CRPOs). Official mailing addresses are published as an appendix to the Air Force's compilation of record systems notices."

* * * * *

CATEGORIES OF RECORDS IN THE SYSTEM:

Delete entry and replace with "Copy of individual application, supporting documents, endorsements by the CBPOs/CRPOs and correspondence reflecting the board's decision on the case, and other official records."

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Delete entry and replace with "10 U.S.C. 8013, Secretary of the Air Force: Powers and duties; delegation by, implemented by Air Force Regulation 31-11, Correction of Airman and Officer Evaluation Reports."

PURPOSE(S):

Delete entry and replace with "To answer individual inquiries concerning a particular appeal. At AFMPC and ARPC levels, records are used as a basis for consideration in preparation of Air Staff advisory opinions on OPR/EPR appeals."

* * * * *

RETENTION AND DISPOSAL:

Delete entry and replace with "AFMPC and ARPC case files are maintained for three calendar years from date of last action as indicated in the file, then destroyed. At CBPOs/CRPOs files are maintained for two calendar years from date of last action as indicated in the file, then destroyed. Destruction is by tearing into pieces, shredding, pulping, macerating, or burning."

SYSTEM MANAGER(S) AND ADDRESS:

Delete entry and replace with "Assistant Deputy Chief of Staff for Personnel, HQ AFMPC, Randolph Air Force Base, TX 78150-6001."

NOTIFICATION PROCEDURE:

Delete entry and replace with "Individuals seeking to determine whether this system of records contains information on them should address inquiries to the Assistant Deputy Chief of Staff for Personnel, HQ AFMPC, Randolph Air Force Base, TX 78150-6001 or the CBPO/CRPO where appeal was processed."

RECORD ACCESS PROCEDURES:

Delete entry and replace with "Individuals seeking to access records about themselves contained in this system should address requests to the Assistant Deputy Chief of Staff for Personnel, HQ AFMPC, Randolph Air Force Base, TX 78150-6001 or to the CBPO/CRPO where appeal was processed."

CONTESTING RECORD PROCEDURES:

Delete entry and replace with "The Air Force rules for access to records and for contesting and appealing initial agency determinations by the individual concerned are published in Air Force Regulation 12-35; 32 CFR part 806b; or may be obtained from the system manager."

RECORD SOURCE CATEGORIES:

Delete entry and replace with "Member's application, endorsements by CBPO/CRPO, official records and documents from other sources, and correspondence reflecting the appeal board's decision. Also, when applicable, Air Staff advisory opinions furnished the Air Force Board for Correction of Military Records under the provisions of Air Force Regulation 31-3, Air Force Board for Correction of Military Records."

* * * * *

F035 AF MP D

SYSTEM NAME:

Officer Performance Report (OPR)/ Enlisted Performance Report (EPR) Appeal Case Files.

SYSTEM LOCATION:

Air Force Military Personnel Center, Randolph Air Force Base, TX 78150-6001; Air Reserve Personnel Center, Denver, CO 80280-5000, and Consolidated Base/Reserve Personnel Offices. Official mailing addresses are published as an appendix to the Air Force's compilation of record systems notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Present and former officers and airmen of the Regular Air Force, the Air Force Reserve and the Air National Guard who appeal for correction of records.

CATEGORIES OF RECORDS IN THE SYSTEM:

Copy of individual application, supporting documents, endorsements by the CBPOs/CRPOs and correspondence reflecting the board's decision on the case, and other official records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 8013, Secretary of the Air Force: Powers and duties; delegation by; implemented by Air Force Regulation 31-11, Correction of Airman and Officer Evaluation Reports.

PURPOSE(S):

To answer individual inquiries concerning a particular appeal. At AFMPC and ARPC levels, records are used as a basis for consideration in preparation of Air Staff advisory opinions on OPR/EPR appeals.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

The Department of the Air Force "Blanket Routine Uses" published at the beginning of the agency's compilation of record system notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEMS:

STORAGE:

Maintained in visible file binders/ cabinets.

RETRIEVABILITY:

Retrieved by name.

SAFEGUARDS:

Records are accessed by custodian of the record system, and by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are stored in locked cabinets or rooms.

RETENTION AND DISPOSAL:

AFMPC and ARPC case files are maintained for three calendar years from date of last action as indicated in the file, then destroyed. At CBPOs/ CRPOs files are maintained for two calendar years from date of last action as indicated in the file, then destroyed. Destruction is by tearing into pieces, shredding, pulping, macerating, or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Deputy Chief of Staff for Personnel, Randolph Air Force Base, TX 78150-6001.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information on them should address inquiries to the Assistant Deputy Chief of Staff for Personnel, Randolph Air Force Base, TX 78150-6001 or to the CBPO/CRPO where appeal was processed. Official mailing addresses are published as an appendix to the Air Force's compilation of record systems notices.

RECORD ACCESS PROCEDURES:

Individuals seeking to access records about themselves contained in this system should address requests to the Assistant Deputy Chief of Staff for Personnel, Randolph Air Force Base, TX 78150-6001 or to the CBPO/CRPO where the appeal was processed. Official mailing addresses are published as an appendix to the Air Force's compilation of record systems notices.

CONTESTING RECORD PROCEDURES:

The Air Force rules for access to records and for contesting and appealing initial agency determinations by the individual concerned are published in Air Force Regulation 12-35; 32 CFR part 806b; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Member's application, endorsements by CBPO/CRPO, official records and documents from other sources, and correspondence reflecting the appeal board's decision. Also, when applicable, Air Staff advisory opinions furnished the Air Force Board for Correction of Military Records under the provisions of Air Force Regulation 31-3, Air Force Board for Correction of Military Records."

EXEMPTIONS CLAIMED FOR THE SYSTEMS:

None.

F035 AFRES A

SYSTEM NAME:

Personnel Interview Record, (50 FR 22393, May 29, 1985).

CHANGES:

SYSTEM LOCATION:

Delete entry and replace with "All Air Force Reserve recruiting locations."

* * * * *

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Change "10 U.S.C. 8012" to 10 U.S.C. 8013," and add to end of entry "and Executive Order 9397."

* * * * *

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Delete entry and replace with "The Department of the Air Force "Blanket Routine Uses" published at the beginning of the agency's compilation of

record system notices apply to this system."

* * * * *

RETRIEVABILITY:

Delete the word "Filed" and insert "Retrieved."

SAFEGUARDS:

Delete entry and replace with "Records are accessed by person(s) responsible for servicing the record system in performance of their official duties and by authorized personnel who are properly screened and cleared for need-to-know. Records are stored in locked rooms and cabinets."

* * * * *

NOTIFICATION PROCEDURE:

Delete entry and replace with "Individuals seeking to determine whether this system of records contains information on them should address inquiries to the system manager."

RECORD ACCESS PROCEDURES:

Delete entry and replace with "Individuals seeking to access records about themselves contained in this system should address requests to the system manager."

CONTESTING RECORD PROCEDURES:

Delete entry and replace with "The Department of the Air Force rules for access to records and for contesting and appealing initial agency determinations by the individual concerned are published in Air Force Regulation 12–35; 32 CFR part 806b; or may be obtained from the system manager."

* * * * *

F035 AFRES A

SYSTEM NAME:

Personnel Interview Record.

SYSTEM LOCATION:

All Air Force Reserve recruiting locations.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All USAF Reserve non prior service and prior service applicants.

CATEGORIES OF RECORDS IN THE SYSTEM:

Data on military and civilian history for interviewing and tentatively qualifying a prospect.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 8013, Secretary of the Air Force: Powers and duties; delegation by, and Executive Order 9397.

PURPOSE(S):

Used for interviewing.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

The Department of the Air Force "Blanket Routine Uses" published at the beginning of the agency's compilation of record system notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in case files.

RETRIEVABILITY:

Retrieved by name and Social Security Number (SSN).

SAFEGUARDS:

Records are accessed by person(s) responsible for servicing the record system in performance of their official duties and by authorized personnel who are properly screened and cleared for need-to-know. Records are stored in locked rooms and cabinets.

RETENTION AND DISPOSAL:

Retained in office files for 1 year after cutoff for permanently disqualified applicant, or 1 year after separation.

SYSTEM MANAGER(S) AND ADDRESS:

Commander, HQ AFRES/RS, Robins AFB, GA 31098–6001.

NOTIFICATION PROCEDURES:

Individuals seeking to determine whether this system of records contains information on them should address inquiries to the Commander, HQ AFRES/RS, Robins AFB, GA 31098–6001.

RECORD ACCESS PROCEDURES:

Individuals seeking to access records about themselves contained in this system should address requests to the Commander, HQ AFRES/RS, Robins AFB, GA 31098–6001.

CONTESTING RECORD PROCEDURES:

The Department of the Air Force rules for access to records and for contesting and appealing initial agency determinations by the individual concerned are published in Air Force Regulation 12–35; 32 CFR part 806b; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Individual.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

F035 AFRES B

SYSTEM NAME:

Recruiters Automated Management System (RAMS), (51 FR 44334, December 9, 1986).

CHANGES:

SYSTEM LOCATION:

Delete entry and replace with "Headquarters, Air Force Reserve, Robins AFB, GA 31098–6001, and input and output terminals located at each Reserve recruiting operating location. Official mailing addresses are published as an appendix to the Air Force's compilation of record systems notices."

* * * * *

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Changes "10 U.S.C. 8012" to "10 U.S.C. 8013," and add to end of entry "and Executive Order 9397."

* * * * *

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Delete entry and replace with "The Department of the Air Force "Blanket Routine Uses" published at the beginning of the agency's compilation of record system notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Delete entry and replace with "Records maintained in a mainframe computer system at HQ Air Force Reserve, Robins AFB, GA and on paper output products at each Recruiting operating location."

RETRIEVABILITY:

Delete the word "Filed" and insert "Retrieved."

* * * * *

NOTIFICATION PROCEDURE:

Delete entry and replace with "Individuals seeking to determine whether this system of records contains information on them should address inquiries to the Commander, HQ AFRES/RS, Robins AFB, GA 31098.

Requests must contain full name and current mailing address."

RECORD ACCESS PROCEDURES:

Delete entry and replace with "Individuals seeking to access records about themselves contained in this system should address requests to the Commander, HQ AFRES/RS, Robins AFB, GA 31098."

CONTESTING RECORD PROCEDURES:

Delete entry and replace with "The Department of the Air Force rules for access to records and for contesting and appealing initial agency determinations by the individual concerned are published in Air Force Regulation 12-35; 32 CFR part 806b; or may be obtained from the system manager."

* * * * *

F035 AFRES B

SYSTEM NAME:

Recruiters Automated Management System (RAMS).

SYSTEM LOCATION:

Headquarters, Air Force Reserve (HQ AFRES), Robins AFB, GA 31098-6001, and input and output terminals located at each Reserve recruiting operating location. Official mailing addresses are published as an appendix to the Air Force's compilation of record systems notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current or former officers and enlisted personnel from all branches of the services making application for assignment to the Air Force Reserve; non prior service personnel making application for the Air Force Reserve; and Air Force personnel on Reserve recruiting duty.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records for high school seniors who are Armed Services Vocational Aptitude Battery tested and meet the basic Air Force Reserve enlistment criteria showing name, mailing address, test scores, and location of high school. Enlistment processing records for prior service Air Force and other military services, and non prior service personnel, showing name, Social Security Number (SSN), mailing address, ZIP Code, educational level, processing date, lead source code, and other personal data such as date of birth, sex, phone number, number of years of prior service, Military Occupation (MOS) Specialty or Air Force Specialty Code (AFSC) held, duty AFSC, and date of enlistment. Resumes and other data elements to record name, date of birth, service dates, assignment status, grade, salary, promotion and step increase dates, occupational series, AFSC or MOS, skill level, position title, educational level, professional/scientific status, special training awards, publications, handicap, minority and sex codes.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 8013, Secretary of the Air Force: Powers and duties; delegation by, and 10 U.S.C. 503, Enlistments: Recruiting campaigns, and Executive Order 9397.

PURPOSE(S):

Provides data concerning the professional qualifications for selection and utilization of personnel, for position management and to perform certain scientific and technical research efforts in program support.

To furnish leads to field recruiters from various advertising campaigns and other sources. To track leads to ensure follow-up by recruiters. To provide recruiters with management tools to follow-up on recruiting programs. To determine which sources of leads produce the greatest number of accessions. To provide a system by which resources areas may be mechanized and managed more efficiently. Used to prepare requests for enlistments data trends. Records are also used for statistical compilations to ensure quality review of recruiting work-flow/products.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

The Department of the Air Force "Blanket Routine Uses" published at the beginning of the agency's compilation of record system notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records maintained in a mainframe computer system at HQ Air Force Reserve, Robins AFB, GA and on paper output products at each Recruiting operating location.

RETRIEVABILITY:

Retrieved by name or SSN.

SAFEGUARDS:

Records are accessed through computer run scheduling arrangements by persons responsible for servicing the system in performance of their official duties. Computer paper printouts are distributed only to authorized users. Records are physically safeguarded by controlled access to the computer facility, secured buildings, and locked rooms.

RETENTION AND DISPOSAL:

Enlistment processing records are retained until no longer needed for recruiting purposes; recruiter records are retained for one year after individual is removed from recruiter production status. These retentions are built into the computer system program with automatic software controlled deletions from the machine-readable record. Recruiter information is retained in computer file or office file until reassignment or separation when it is destroyed. Records are destroyed by tearing into pieces, shredding, pulping, macerating or burning. Computer records are destroyed by erasing, deleting or overwriting.

SYSTEM MANAGER(S) AND ADDRESS:

Commander, HQ AFRES/RS, Robins AFB, GA 31098.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information on them should address inquiries to the Commander, HQ AFRES/RS, Robins AFB, GA 31098.

Requests must contain full name and current mailing address.

RECORD ACCESS PROCEDURES:

Individuals seeking to access records about themselves contained in this system should address requests to the Commander, HQ AFRES/RS, Robins AFB, GA 31098.

CONTESTING RECORD PROCEDURES:

The Department of the Air Force rules for access to records and for contesting and appealing initial agency determinations by the individual concerned are published in Air Force Regulation 12-35; 32 CFR part 806b; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Information is obtained from military and civilian personnel records, and managers and supervisors of individuals.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

F035 MPC F

SYSTEM NAME:

Health Education Records, (50 FR 22412, May 29, 1985).

CHANGES:

* * * * *

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Delete entry and replace with "All airmen and officers of the United States Air Force who have applied for training to Air Force Military Personnel Center (AFMPC), Medical Education Division."

CATEGORIES OF RECORDS IN THE SYSTEM:

Delete entry and replace with "Allied Health Selection Board Folders: Application for officer school training; educational transcripts; chronological listings of work experience; letters of recommendation; specific test results; Scholastic Aptitude Test; grade point averages; Officer Performance Reports (OPR); photo; AFMPC Rating Assessment Sheet for Physician Assistant applicant; Consolidated Base Personnel Office letters; prerequisite verifications; counseling on reenlistment limitations; reenlistment/extension eligibility; status of Unfavorable Information File folder; records review listing; verification of Airman Qualifying Examination; total active federal military service date; date eligible for return from overseas; projected assignment; Enlisted Performance Reports (EPR); applicant statements - why training desired; intent to extend/reenlist; commissioning physical; general information including extended active duty date; date of rank; passovers; command; base of assignment; arrived on station, and marital status.

Air Force Institute of Technology (AFIT) Selection Folders: Officer career brief; letters of recommendation; transcripts; Graduate Records Examination and Graduate Management Admission Test scores; application for AFIT training; field personnel record (duplicate copy); application for appointment in the Reserve; personnel security clearance, Armed Forces Security Questionnaire; Personnel History Statement, DD Form 398, statement of understanding for appointment; photo, and record of computer input.

Undergraduate Education Selection Folders: Application; Medical College Admission Test scores; letter of acceptance from an accredited school; letters of recommendation; approval to apply; Academic/Clinical Evaluation Sheet, AF Form 494; Education/Training Report, AF Form 475; essay; Appointment Order, ARPC Form 92; OPRs; EPRs; Armed Force Health Professions Scholarship Program contract, and Uniformed Services University of the Health Sciences statement of understanding.

Graduate Medical Education Records: Application for Training, AFMPC Form 131; photo; transcripts; letters of recommendation; career motivation essay; board results notification letter; active duty service commitment statement; Educational Permanent Change of Station Request, AFMPC Form 180; Request for Active Duty Service Commitment Computation, AFMPC Form 183; Hospital Agreement, AFMPC Form 190; Academic/Clinical Evaluation Sheet, AF Form 494; letter on certification of graduation from training; memos for record; general correspondence with physician; request for resignation from training; request for extension, and congressional correspondence."

* * * * *

PURPOSE(S):

Delete entry and replace with "Used by the Medical Education Division, and Medical Education Selection Boards in selecting individuals of the medical service and line of the Air Force to attend undergraduate and graduated educational programs and technical training. Such programs include undergraduate and graduate nurse education, medical school, residencies and fellowships for physicians, and graduate education for Medical Service Corps, BioMedical Service Corps, residencies for dental officers, and Physician Assistant program for airmen. Another use of the system is to monitor the individuals progress in an educational program after selection until completion of their program."

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM; INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Delete entry and replace with "The Department of the Air Force "Blanket Routine Uses" published at the beginning of the agency's compilation of record system notices apply to this system."

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RETENTION AND DISPOSAL:

Delete third sentence beginning with "Exception: Transcripts are * * *"

SYSTEM MANAGER(S) AND ADDRESS:

Delete entry and replace with "Assistant Deputy Chief of Staff for Personnel, HQ AFMPC, Randolph AFB, TX 78150-6001."

NOTIFICATION PROCEDURE:

Delete entry and replace with "Individuals seeking to determine whether this system of records contains information on them should address inquiries to the Assistant Deputy Chief of Staff for Personnel, HQ AFMPC, Randolph AFB, TX 78150-6001."

RECORD ACCESS PROCEDURES:

Delete entry and replace with "Individuals seeking to access records about themselves contained in this system should address requests to the Assistant Deputy Chief of Staff for Personnel, HQ AFMPC, Randolph AFB, TX 78150-6001."

CONTESTING RECORD PROCEDURES:

Delete entry and replace with "The Air Force rules for access to records and for contesting and appealing initial agency determinations by the individual concerned are published in Air Force Regulation 12-35; 32 CFR part 806b; or may be obtained from the system manager."

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F035 MPC F

SYSTEM NAME:

Health Education Records.

SYSTEM LOCATION:

Air Force Military Personnel Center, Randolph Air Force Base, TX 78150-6001.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All airmen and officers of the United States Air Force who have applied for training to Air Force Military Personnel Center/Medical Education Division.

CATEGORIES OF RECORDS IN THE SYSTEM:

Allied Health Selection Board Folders: Application for officer school training; educational transcripts; chronological listings of work experience; letters of recommendation; specific test results; Scholastic Aptitude Test; grade point averages; Officer Performance Reports (OPR); photo; AFMPC Rating Assessment Sheet for Physician Assistant applicant; Consolidated Base Personnel Office letters; prerequisite verifications; counseling on reenlistment limitations; reenlistment/extension eligibility; status of Unfavorable Information File folder; records review listing; verification of Airman Qualifying Examination; total active federal military service date; date eligible for return from overseas; projected assignment; Enlisted Performance Reports (EPR); applicant statements - why training desired; intent to extend/reenlist; commissioning physical; general information including extended active duty date; date of rank; passovers; command; base of assignment; arrived on station, and marital status.

Air Force Institute of Technology (AFIT) Selection Folders: Officer career brief; letter of recommendation; transcripts; Graduate Records Examination and Graduate Management Admission Test scores; application for AFIT training; field personnel record (duplicate copy); application for appointment in the Reserve; personnel

security clearance, Armed Forces Security Questionnaire; Personnel History Statement, DD Form 398, statement of understanding for appointment; photo, and record of computer input.

Undergraduate Education Selection Folders: Application; Medical College Admission Test scores; letter of acceptance from an accredited school; letters of recommendation; approval to apply; Academic/Clinical Evaluation Sheet, AF Form 494; Education/Training Report, AF Form 475; essay; Appointment Order, ARPC Form 92; OPRs; EPRs; Armed Force Health Professions Scholarship Program contract, and Uniformed Services University of the Health Sciences statement of understanding.

Graduate Medical Education Records: Application for Training, AFMPC Form 131; photograph; transcripts; letters of recommendation; career motivation essay; board results notification letter; active duty service commitment statement; Educational Permanent Change of Station Request, AFMPC Form 180; Request for Active Duty Service Commitment Computation, AFMPC Form 183; Hospital Agreement, AFMPC Form 190; Academic/Clinical Evaluation Sheet, AF Form 494; letter on certification of graduation from training; memos for record; general correspondence with physician; request for resignation from training; request for extension, and congressional correspondence.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 105, Armed Forces Health Professions Scholarship and 10 U.S.C. 9301, Members of Air Force: Detail as students, observers, and investigators at educational institutions, industrial plants, and hospitals.

PURPOSE(S):

Used by the Medical Education Division, and Medical Education Selection Boards in selecting individuals of the medical service and line of the Air Force to attend undergraduate and graduated educational programs. Such programs include undergraduate and graduate nurse education, medical school, residencies and fellowships for physicians, and graduate education for Medical Service Corps, Biomedical Service Corps, residencies for dental officers, and Physician Assistant program for airmen. Another use of the system is to monitor the individuals progress in an educational program after selection until completion of their program.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

The Department of the Air Force "Blanket Routine Uses" published at the beginning of the agency's compilation of record system notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in visible file binders/cabinets.

RETRIEVABILITY:

Retrieved by name.

SAFEGUARDS:

Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are stored in locked cabinets or rooms.

RETENTION AND DISPOSAL:

Allied Health Selection Board folders and Undergraduate Education Selection folders: Retained until Selection Board process is completed; AFIT Selection Board folders are maintained for one year. Physician Deferment folders: Retained until the individual is called to active duty or separated from the Air Force Reserve. Graduate Medical Education records: Retained until individual separates or retires from the Air Force.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Deputy Chief of Staff for Personnel, HQ AFMPC, Randolph Air Force Base, TX 78150–6001.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information on them should address inquiries to the Assistant Deputy Chief of Staff for Personnel, HQ AFMPC, Randolph Air Force Base, TX 78150–6001.

RECORD ACCESS PROCEDURES:

Individuals seeking to access records about themselves contained in this system should address requests to the Assistant Deputy Chief of Staff for Personnel, HQ AFMPC, Randolph Air Force Base, TX 78150–6001.

CONTESTING RECORD PROCEDURES:

The Air Force rules for access to records and for contesting and appealing initial agency determinations by the individual concerned are published in Air Force Regulation 12–35; 32 CFR part 806b; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Member's application, supervisor's evaluation, master personnel records (board use only), Career Brief (board use only), transcripts, test scores, Deans' letters of recommendation, Standard Form (SF) 88 and SF 93.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

F035 MPC S

SYSTEM NAME:

Aviation Service Branch File, (50 FR 22421, May 29, 1985).

CHANGES:

SYSTEM NAME:

Change System name to read, "Aviation Service Historical Data File."

SYSTEM LOCATION:

Delete entry and replace with "Deputy Chief of Staff for Plans and Operations, Headquarters, United States Air Force, Pentagon, Washington, DC 20330–5054."

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Delete entry and replace with "Active and inactive duty Air Force officers and enlisted personnel."

CATEGORIES OF RECORDS IN THE SYSTEM:

Delete entry and replace with "Records concerning any qualification/disqualification for aviation service action and determination of eligibility for aeronautical badges; documentation on rated officers removed from or returned to flying status; officers granted United States Air Force aeronautical rating as a result of aeronautical rating boards, and records of non-rated officers and enlisted personnel who request action or consideration for flying status."

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Delete entry and replace with "10 U.S.C. 8691, Flying officer rating: Qualifications, as implemented by Air Force Regulation 60-13, Aviation Service, Aeronautical Ratings, and Badges."

PURPOSE(S):

Delete entry and replace with "Provides an historical data base for USAF aviation service actions. Used to respond to inquiries regarding past and current aviation service actions on individuals by officials within the Office of the Secretary of the Air Force; the Air Force Board for Correction of Military

Records, the Office of the Chief of Staff, HQ USAF, the Office of the Air Force Deputy Chief of Staff for Personnel; the Office of Assistant Deputy Chief of Staff, for Military Personnel, wherein a rated officer's qualification for aviation service is in question, the record is reviewed within the Training and Warrior Management Division, Directorate of Operations, Deputy Chief of Staff for Plans and Operations, for final decision by the Director of Operations."

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Delete entry and replace with "The Department of the Air Force "Blanket Routine Uses" published at the beginning of the agency's compilation apply to this system."

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

* * * * *

RETRIEVABILITY:

Delete entry and replace with "Retrieved by name."

SAFEGUARDS:

Delete entry and replace with "Records are accessed by person(s) responsible for servicing the record system in performance of their official duties and by authorized personnel who are properly screened and cleared for need-to-know. Records are stored in locked rooms and cabinets."

RETENTION AND DISPOSAL:

Delete entry and replace with "Records are maintained as precedent files in accordance with Air Force Regulation 12–50, Volume II, Disposition of Air Force Documentation - Policies, Procedures and Responsibilities. Records are destroyed by tearing into pieces, shredding, pulping, macerating, or burning."

SYSTEM MANAGER(S) AND ADDRESS:

Delete entry and replace with "Chief, Aviation Service Branch, Warrior Management Division, Directorate of Operations, Deputy Chief of Staff for Plans and Operations, Headquarters, United States Air Force, the Pentagon, Washington, DC 20330–5054."

NOTIFICATION PROCEDURE:

Delete entry and replace with "Individuals seeking to determine whether this system of records contains information on them should address inquiries to the system manager."

RECORD ACCESS PROCEDURES:

Delete entry and replace with "Individuals seeking to access records about themselves contained in this system should address requests to the system manager."

CONTESTING RECORD PROCEDURES:

Delete entry and replace with "The Air Force rules for access to records and for contesting and appealing initial agency determinations by the individual concerned are published in Air Force Regulation 12–35; 32 CFR part 806b; or may be obtained from the system manager."

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F035 MPC S

SYSTEM NAME:

Aviation Service Historical Data File.

SYSTEM LOCATION:

Deputy Chief of Staff for Plans and Operations, Headquarters, United States Air Force, Pentagon, Washington, DC 20330–5054.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Active and inactive duty Air Force officers and airmen.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records concerning any qualification/disqualification for aviation service action and determination of eligibility for aeronautical badges; documentation on rated officers removed from or returned to flying status; officers granted United States Air Force aeronautical rating as a result of aeronautical rating boards, and records of non-rated officers and enlisted personnel who request action or consideration for flying status.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 8691, Flying officer rating: Qualifications, as implemented by Air Force Regulation 60–13, Aviation Service, Aeronautical Ratings, and Badges.

PURPOSE(S):

Provides an historical data base for USAF aviation service actions. Used to respond to inquiries regarding past and current aviation service actions on individuals by officials within the Office of the Secretary of the Air Force; the Air Force Board for Correction of Military Records, the Office of the Chief of Staff, USAF, the Office of the Air Force Deputy Chief of Staff for Personnel; the Office of Assistant Deputy Chief of Staff for Military Personnel, wherein a rated officer's qualification for aviation service is in question, the record is reviewed within the Training and Warrior Management Division, Directorate of Operations, Deputy Chief of Staff for Plans and Operations, for final decision by the Director of Operations.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

The Department of the Air Force "Blanket Routine Uses" published at the beginning of the agency's compilation apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in visible file binders/cabinets.

RETRIEVABILITY:

Retrieved by name.

SAFEGUARDS:

Records are accessed by person(s) responsible for servicing the record system in performance of their official duties and by authorized personnel who are properly screened and cleared for need-to-know. Records are stored in locked rooms and cabinets.

RETENTION AND DISPOSAL:

Records are maintained as precedent files in accordance with Air Force Regulation 12–50, Volume II, Disposition of Air Force Documentation - Policies, Procedures and Responsibilities. Records are destroyed by tearing into pieces, shredding, pulping, macerating, or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Aviation Service Branch, Warrior Management Division, Directorate of Operations, Deputy Chief of Staff for Plans and Operations, Headquarters, United States Air Force, Washington, DC 20330–5054.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information on them should address inquiries to the system manager.

RECORD ACCESS PROCEDURES:

Individuals seeking to access records about themselves contained in this system should address requests to the system manager.

CONTESTING RECORD PROCEDURES:

The Air Force rules for access to records and for contesting and appealing initial agency determinations by the individual concerned are

published in Air Force Regulation 12–35; 32 CFR part 806b; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Correspondence generated at base level, major air command or Air Staff level.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

F160 DODMERB A

SYSTEM NAME:

Department of Defense Medical Examination Review Board (DODMERB) Medical Examination Files, (51 FR 18928, May 23, 1986).

CHANGES:

SYSTEM LOCATION:

Delete "Camp Hill, PA" and add "***and EDS DCITC Tape Library, 13600 EDS Drive, Herndon, VA 22071."

* * * * *

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Add to end of entry "and Executive Order 9397."

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Delete entry and replace with "The Department of the Air Force "Blanket Routine Uses" published at the beginning of the agency's compilation of record system notices apply to this system. In addition, medical consultations with parents/legal guardians may be necessary to clarify/explain applicant's medical status. Examinations may be released to civilian contract agents of the government and private physicians associated with medically certifying applicants for military service."

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Delete entry and replace with "Stored in computers, on computer output products, and on electronic digital imaging storage system."

* * * * *

SAFEGUARDS:

Delete entry and replace with "Records are accessed by person(s) responsible for servicing the record system in performance of their official duties and by authorized personnel who are properly screened and cleared for need-to-know. Records are stored in locked rooms and cabinets. Those in computer storage devices are protected by computer system software."

RETENTION AND DISPOSAL:

Add to end of entry "Computer records are destroyed by erasing, deleting or overwriting."

* * * * *

NOTIFICATION PROCEDURE:

Delete entry and replace with "Individuals seeking to determine whether this system of records contains information on them should address inquiries to the system manager."

RECORD ACCESS PROCEDURES:

Delete entry and replace with "Individuals seeking to access records about themselves contained in this system should address requests to the system manager."

CONTESTING RECORD PROCEDURES:

Delete entry and replace with "The Department of the Air Force rules for access to records and for contesting and appealing initial agency determinations by the individual concerned are published in Air Force Regulation 12–35; 32 CFR part 806b; or may be obtained from the system manager."

RECORD SOURCE CATEGORIES:

Delete entry and replace with "Information obtained from medical institutions and subject of the record."

* * * * *

F160 DODMERB A

SYSTEM NAME:

Department of Defense Medical Examination Review Board (DODMERB) Medical Examination Files.

SYSTEM LOCATION:

Department of Defense Medical Examination Review Board (DODMERB) United States Air Force Academy (USAF Academy), CO 80840–6518 and EDS DCITC Tape Library, 13600 EDS Drive, Herndon, VA 22071.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All applicants to the five service academies, the four year Reserve Officer Training Corps (ROTC) scholarship program, Uniform Services University of Health Sciences (USUHS) scholarship program, and the Army, Navy, and Air Force College Scholarship Program (CSP).

CATEGORIES OF RECORDS IN THE SYSTEM:

Report of the Medical Examination, Report of Medical History, Report of Dental Examination, to include dental x-rays and any associated civilian forms or medical tests that have been accomplished; may also contain personal correspondence between the DODMERB and the applicant, parents/guardian concerning the applicant's medical history or qualification status.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 133, Executive department, and Executive Order 9397.

PURPOSE(S):

The medical examination in computer form is used to determine medical acceptability for one or more of the five military service academies or the ROTC, USUHS, CSP for the Air Force, Army and Navy ROTC. The computer also produces products to advise each program manager of initial status and all update actions on the applicant.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

The Department of the Air Force "Blanket Routine Uses" published at the beginning of the agency's compilation of record system notices apply to this system.

In addition, Medical consultations with parents/legal guardians may be necessary to clarify/explain applicant's medical status. Examinations may be released to civilian contract agents of the government and private physicians associated with medically certifying applicants for military service.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Stored in computers, on computer output products, and on electronic digital imaging storage system.

RETRIEVABILITY:

Retrieved by name and Social Security Number.

SAFEGUARDS:

Records are accessed by person(s) responsible for servicing the record system in performance of their official duties and by authorized personnel who are properly screened and cleared for need-to-know. Records are stored in locked rooms and cabinets. Those in computer storage devices are protected by computer system software.

RETENTION AND DISPOSAL:

A paper copy of medical and dental records will be generated by computer on all appointed candidates and will be forwarded to each program the applicant is medically certified for. Computer and optical disk files for all

applicants will be retained for five years. Records are destroyed by tearing into pieces, shredding, pulping, macerating or burning. Computer records are destroyed by erasing, deleting or overwriting.

SYSTEM MANAGER(S) AND ADDRESS:

Department of Defense Medical Examination Review Board, USAF Force Academy, CO 80840–6518.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information on them should address inquiries to the Department of Defense Medical Examination Review Board, USAF Force Academy, CO 80840–6518.

RECORD ACCESS PROCEDURES:

Individuals seeking to access records about themselves contained in this system should address requests to the Department of Defense Medical Examination Review Board, USAF Force Academy, CO 80840–6518.

CONTESTING RECORD PROCEDURES:

The Department of the Air Force rules for access to records and for contesting and appealing initial agency determinations by the individual concerned are published in Air Force Regulation 12–35; 32 CFR part 806b; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Information obtained from medical institutions and subject of the record.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

F162 AF SG A

SYSTEM NAME:

Dental Health Records, (50 FR 22513, May 29, 1985).

CHANGES:

SYSTEM LOCATION:

Add to end of entry " Official mailing addresses are published as an appendix to the Air Force's compilation of record systems notices."

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ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Delete entry and replace with "The Department of the Air Force "Blanket Routine Uses" published at the beginning of the agency's compilation of record system notices apply to this system, except as stipulated in "Note" below.

Information from the inpatient or outpatient dental records of retirees and dependents may be disclosed to third party payers in accordance with 10 U.S.C. 1095 as amended by Public Law 99–272, for the purpose of collecting reasonable inpatient/outpatient hospital care costs incurred on behalf of retirees or dependents.

Records are used and reviewed by health care providers in the performance of their duties. Health care providers include military and civilian providers assigned to the medical facility where care is being provided.

Students participating in a training affiliation program with a USAF medical facility may also use and review records as part of their training program. In addition, records may be disclosed to: (1) Officials and employees of the Veterans Administration in the performance of their official duties relating to the adjudication of veterans claims and in providing medical care to members of the Air Force. (2) Officials and employees of other departments and agencies of the Executive Branch of government upon request in the performance of their official duties relating to review of the official qualifications and medical history of applicants and employees who are covered by this record system and for the conduct of research studies. (3) Private organizations (including educational institutions) and individuals for authorized health research in the interest of the Federal government and the public. When not considered mandatory, patient identification data shall be eliminated from records used for research studies. (4) Officials and employees of the National Research Council in cooperative studies of the National History of Disease; of prognosis and of epidemiology. Each study in which the records of members and former members of the Air Force are used must be approved by the Surgeon General of the Air Force. (5) Officials and employees of local and state governments and agencies in the performance of their official duties pursuant to the laws and regulations governing local control of communicable diseases, preventive medicine and safety programs, child abuse and other public health and welfare programs. (6) Authorized surveying bodies for professional certification and accreditations. (7) The individual's organization or government agency as necessary when required by Federal statute, Executive Order, or by treaty.

Note: Records of identity, diagnosis, prognosis or treatment of any client/patient, irrespective of whether or when he/she ceases to be a client/patient, maintained in connection with the performance of any alcohol/drug abuse, family advocacy, AIDS, or sickle cell prevention and treatment function conducted, requested, or directly or indirectly assisted by any department or agency of the United States, shall, except as provided herein, be confidential and be disclosed only for the purposes and under the circumstances expressly authorized in 42 U.S.C. 290dd–3, 290ee–3, and 21 U.S.C. 1175. These statutes take precedence over the Privacy Act of 1974 in regard to accessibility of such records except to the individual to whom the record pertains. The Department of the Air Force "Blanket Routine Uses" do not apply to these types of records."

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SYSTEM MANAGER(S) AND ADDRESS:

Add to end of entry "Official mailing addresses are published as an appendix to the Air Force's compilation of record systems notices."

NOTIFICATION PROCEDURE:

Delete entry and replace with "Individuals seeking to determine whether this system of records contains information on them should address inquiries to the system manager giving complete name, social security number of individual through whom eligibility for care is established, year in which treatment was received, location treatment was received, whether treatment was on an inpatient or outpatient basis."

RECORD ACCESS PROCEDURES:

Delete entry and replace with "Individuals seeking to access records about themselves contained in this system should address requests to the system manager. Official mailing addresses are published as an appendix to the Air Force's compilation of record systems notices. An appropriately signed authorization for the release of information is required with complete name and Social Security Number of individual through whom eligibility for care was established."

CONTESTING RECORD PROCEDURES:

Delete entry and replace with "The Department of the Air Force rules for access to records and for contesting and appealing initial agency determinations by the individual concerned are published in Air Force Regulation 12–35; 32 CFR part 806b; or may be obtained from the system manager."

RECORD SOURCE CATEGORIES:

Delete entry and replace with "Information obtained from patient and other medical institutions."

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F162 AF SG A

SYSTEM NAME:

Dental Health Records.

SYSTEM LOCATION:

Air Force hospitals, medical centers and clinics; other authorized medical units serving military personnel and/or dependents. Official mailing addresses are published as an appendix to the Air Force's compilation of record systems notices. Air Force Military Personnel Center, Randolph Air Force Base, TX 78148; National Personnel Records Center, Military Personnel Records, 9700 Page Boulevard, St. Louis, MO 63132, National Personnel Records Center, Civilian Personnel Records, 111 Winnebago Street, St. Louis, MO 63118.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Active duty and retired Air Force military personnel; Air Force Academy nominees/applicants; family members of military and retired personnel; foreign Nationals residing in the United States; American Red Cross personnel; other DOD civilian employees, Peace Corps and State Department personnel; Exchange Officers.

CATEGORIES OF RECORDS IN THE SYSTEM:

Chronological record of all care received in military dental facilities. This is primarily a record of all treatment received on an outpatient basis with supporting documentation such as consultations, dental history, laboratory, and x-ray reports; the record also includes temporary copies of appointment slips and attendance records until entered in the record.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 55, Medical and Dental Care.

PURPOSE(S):

Chronological record of patient's dental health while authorized care in a military dental facility. Used by patient for further dental care, other uses such as insurance requests or compensation claims as specifically authorized by the patient. Used by dentist for further dental care of the patient, research, teaching. Used by other patient care providers within the hospital for further medical/dental care of the patient, research, teaching. Used by hospital and dental staff for evaluation of dental staff performance in the dental care rendered; dental research; teaching; hospital accreditation; preparation of statistical reports. Used by Army, Navy, Veterans Administration, Public Health Service, and other hospitals/clinics, for further dental care of the patient if currently undergoing treatment there. Record is released only upon receipt of the patient's signed authorization or a court order. Insurance companies require the patients' written consent for release. Used for establishing insurance benefits or payment of benefits. Used by other Air Force Agencies such as Central Tumor Registry which maintains files on all patients in whom a malignancy has been diagnosed.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

The Department of the Air Force "Blanket Routine Uses" published at the beginning of the agency's compilation of record system notices apply to this system, except as stipulated in "Note" below.

Information from the inpatient or outpatient dental records of retirees and dependents may be disclosed to third party payers in accordance with 10 U.S.C. 1095 as amended by Public Law 99-272, for the purpose of collecting reasonable inpatient/outpatient hospital care costs incurred on behalf of retirees or dependents.

Records are used and reviewed by health care providers in the performance of their duties. Health care providers include military and civilian providers assigned to the medical facility where care is being provided.

Students participating in a training affiliation program with a USAF medical facility may also use and review records as part of their training program.

In addition, records may be disclosed to: (1) Officials and employees of the Veterans Administration in the performance of their official duties relating to the adjudication of veterans claims and in providing medical care to members of the Air Force. (2) Officials and employees of other departments and agencies of the Executive Branch of government upon request in the performance of their official duties relating to review of the official qualifications and medical history of applicants and employees who are covered by this record system and for the conduct of research studies. (3) Private organizations (including educational institutions) and individuals for authorized health research in the interest of the Federal government and the public. When not considered mandatory, patient identification data shall be eliminated from records used for research studies. (4) Officials and employees of the National Research Council in cooperative studies of the National History of Disease; of prognosis and of epidemiology. Each study in which the records of members and former members of the Air Force are used must be approved by the Surgeon General of the Air Force. (5) Officials and employees of local and state governments and agencies in the performance of their official duties pursuant to the laws and regulations governing local control of communicable diseases, preventive medicine and safety programs, child abuse and other public health and welfare programs. (6) Authorized surveying bodies for professional certification and accreditations. (7) The individual's organization or government agency as necessary when required by Federal statute, Executive Order, or by treaty.

Note: Records of identity, diagnosis, prognosis or treatment of any client/patient, irrespective of whether or when he/she ceases to be a client/patient, maintained in connection with the performance of any alcohol/drug abuse, family advocacy, AIDS, or sickle cell prevention and treatment function conducted, requested, or directly or indirectly assisted by any department or agency of the United States, shall, except as provided herein, be confidential and be disclosed only for the purposes and under the circumstances expressly authorized in 42 U.S.C. 290dd-3, 290ee-3, and 21 U.S.C. 1175. These statutes take precedence over the Privacy Act of 1974 in regard to accessibility of such records except to the individual to whom the record pertains. The Department of the Air Force "Blanket Routine Uses" do not apply to these types of records.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders, notebooks/binders, visible file binders/cabinets, card files, on x-ray film, and as photographs.

RETRIEVABILITY:

Retrieved by name, Social Security Number, or Military Service Number.

SAFEGUARDS:

Records are accessed by commanders of medical centers and hospitals, custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties who are properly

screened and cleared for need-to-know. Records are stored in locked cabinets or rooms, protected by guards, and controlled by personnel screening.

RETENTION AND DISPOSAL:

Records for military personnel are retained for fifty years after date of last document; for all others, twenty-five years. While on active duty, the Health Record of a US military member is maintained at the dental unit at which the person receives treatment. On separation/retirement the records are forwarded to National Personnel Records Center (NPRC/MPR) or other designated depository; such as Air Reserve Personnel Center, if reservist; to appropriate state National Guard unit, if National Guard member, to appropriate Veterans Administration Regional Office, if VA claim has been filed. Records of other personnel may be handcarried or mailed to the next military medical facility at which treatment will be received, or the records are retained at the treating facility for a minimum of 1 year after date of last treatment then retired to NPRC or other designated depository, such as but not limited to, Commandant (G-PO) US Coast Guard, Washington DC 20593 for Coast Guard active duty members; Medical Director, American Red Cross, Washington DC 20006 for Red Cross Personnel.

SYSTEM MANAGER(S) AND ADDRESS:

The Surgeon General, Headquarters United States Air Force. Assistant Surgeon General for Dental Services USAF; commanders of medical centers, hospitals, clinics, and medical aid stations. Official mailing addresses are published as an appendix to the Air Force's compilation of record systems notices.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information on them should address inquiries to the system manager giving complete name, social security number of individual through whom eligibility for care is established, year in which treatment was received, location treatment was received, whether treatment was on an inpatient or outpatient basis.

RECORD ACCESS PROCEDURES:

Individuals seeking to access records about themselves contained in this system should address requests to the system manager. An appropriately signed authorization for the release of information is required with complete name and Social Security Number of individual through whom eligibility for care was established.

CONTESTING RECORD PROCEDURES:

The Department of the Air Force rules for access to records and for contesting and appealing initial agency determinations by the individual concerned are published in Air Force Regulation 12–35; 32 CFR part 806b; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Information obtained from patient and other medical institutions.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

F168 AF SG E

SYSTEM NAME:

Nursing Service Records, (50 FR 22517, May 29, 1985).

CHANGES:

SYSTEM LOCATION:

Add to end of entry "Official mailing addresses are published as an appendix to the Air Force's compilation of record systems notices."

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ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Add to end of entry "Records are used and reviewed by health care providers in the performance of their duties. Health care providers include military and civilian providers assigned to the medical facility where care is being provided. Students participating in a training affiliation program with a USAF medical facility may also use and review records as part of their training program."

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RETRIEVABILITY:

Delete the word "Filed" and insert "Retrieved."

SAFEGUARDS:

Delete entry and replace with "Records are accessed by person(s) responsible for servicing the record system in performance of their official duties and by authorized personnel who are properly screened and cleared for need-to-know. Records are stored in locked rooms and cabinets."

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SYSTEM MANAGER(S) AND ADDRESS:

Add to end of entry "Official mailing addresses are published as an appendix to the Air Force's compilation of system notices."

NOTIFICATION PROCEDURE:

Delete entry and replace with "Individuals seeking to determine whether this system of records contains information on them should address inquiries to the system manager. Official mailing addresses are published as an appendix to the Air Force's compilation of record systems notices."

RECORD ACCESS PROCEDURES:

Delete entry and replace with "Individuals seeking to access records about themselves contained in this system should address requests to the system manager. Official mailing addresses are published as an appendix to the Air Force's compilation of record systems notices."

CONTESTING RECORD PROCEDURES:

Delete entry and replace with "The Air Force rules for access to records and for contesting and appealing initial agency determinations by the individual concerned are published in Air Force Regulation 12–35; 32 CFR part 806b; or may be obtained from the system manager."

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F168 AF SG E

SYSTEM NAME:

Nursing Service Records.

SYSTEM LOCATION:

Air Force hospitals, medical centers and clinics. Official mailing addresses are published as an appendix to the Air Force's compilation of record systems notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Active duty and retired military personnel; Air Force civilian employees; Air Force Reserve and National Guard personnel; Air Force Academy cadets; dependents of military personnel; Foreign Nationals residing in the United States; American Red Cross personnel, Peace Corps and State Department personnel; Exchange officers, anyone admitted to inpatient status in Air Force medical facilities.

CATEGORIES OF RECORDS IN THE SYSTEM:

File contains 24-hour nursing reports, listings of ward patients and registers containing information on operations performed.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 55, Medical and dental care, and 10 U.S.C. 8067(e), Designation: Officers to perform certain professional functions, as implemented by Air Force

Regulation 168–4, Administration of Medical Activities.

PURPOSE(S):

Used by Chief Nurse and other management personnel to determine nursing care work loads and allocate resources.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

The Department of the Air Force "Blanket Routine Uses" published at the beginning of the agency's compilation of record system notices apply to this system. Records are used and reviewed by health care providers in the performance of their duties. Health care providers include military and civilian providers assigned to the medical facility where care is being provided. Students participating in a training affiliation program with a USAF medical facility may also use and review records as part of their training program.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders, notebooks and binders.

RETRIEVABILITY:

Retrieved by name, dates of admission and discharge from medical facility, date of operation.

SAFEGUARDS:

Records are accessed by person(s) responsible for servicing the record system in performance of their official duties and by authorized personnel who are properly screened and cleared for need-to-know. Records are stored in locked rooms and cabinets.

RETENTION AND DISPOSAL:

Retained in office files for three months after monthly cutoff, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning. Operation registers are destroyed after five years.

SYSTEM MANAGER(S) AND ADDRESS:

The Surgeon General, Headquarters, United States Air Force. Chief Nurses of medical centers and hospitals. Official mailing addresses are published as an appendix to the Air Force's compilation of system notices.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information on them should address inquiries to the system manager. Official mailing addresses are published as an appendix to the Air Force's compilation of record systems notices. Official mailing addresses are published as an appendix to the Air Force's compilation of record systems notices.

RECORD ACCESS PROCEDURES:

Individuals seeking to access records about themselves contained in this system should address requests to the system manager.

CONTESTING RECORD PROCEDURES:

The Air Force rules for access to records and for contesting and appealing initial agency determinations by the individual concerned are published in Air Force Regulation 12–35; 32 CFR part 806b; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

From medical records and personal observations of Nursing Service personnel.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

F176 AF MP A

SYSTEM NAME:

Nonappropriated Fund Instrumentalities (NAFI) Financial System, (50 FR 22519, May 29, 1985).

CHANGES:

SYSTEM LOCATION:

Delete entry and replace with Air Force Military Personnel Center, Randolph Air Force Base, TX 78150–6001, major commands headquarters and field operating agencies, and Air Force NAIF when deemed appropriate and necessary and approved by the appropriate commander. System exists within approximately 500 NAFI which include resale and revenue-sharing NAFI, Morale, Welfare, and Recreation Fund, and supplemental mission services NAFI. Official mailing addresses are published as an appendix to the Air Force's compilation of record systems notices."

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

In first sentence, delete the words "and are dishonored."

CATEGORIES OF RECORDS IN THE SYSTEM:

In second sentence, delete the word "dishonored" and substitute with "returned."

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Change "10 U.S.C. 8012", to "10 U.S.C. 8013," change Air Force Regulation 176–378" to Air Force Manual 176–378, and add "and Executive Order 9397" to end of entry.

PURPOSE(S):

In third sentence, delete the word "dishonored" and substitute with "returned."

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RETRIEVABILITY:

Delete entry and replace with "Retrieved by name, membership organization account number, and/or Social Security Number."

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RETENTION AND DISPOSAL:

Delete the word "dishonored" and substitute with "returned."

SYSTEM MANAGER(S) AND ADDRESS:

Delete entry and replace with "Assistant Deputy Chief of Staff for Personnel, Randolph Air Force Base, TX 78150–6001."

NOTIFICATION PROCEDURE:

Delete entry and replace with "Individuals seeking to determine whether this system of records contains information on them should address inquiries to the Assistant Deputy Chief of Staff for Personnel, Randolph Air Force Base, TX 78150–6001.

Individuals may also contact the appropriate Nonappropriated Fund Financial Management Branch or the appropriate operating manager. Official mailing addresses are published as an appendix to the Air Force's compilation of record systems notices."

RECORD ACCESS PROCEDURES:

Delete entry and replace with "Individuals seeking to access records about themselves contained in this system should address requests to the Assistant Deputy Chief of Staff for Personnel, Randolph Air Force Base, TX 78150–6001.

Individuals may also contact the appropriate Nonappropriated Fund Financial Management Branch or the appropriate operating manager. Official mailing addresses are published as an appendix to the Air Force's compilation of record systems notices."

CONTESTING RECORD PROCEDURES:

Delete entry and replace with "The Air Force rules for access to records and for contesting and appealing initial agency determinations by the individual concerned are published in Air Force Regulation 12–35; 32 CFR part 806b; or may be obtained from the system manager."

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F176 AF MP A

SYSTEM NAME:

Nonappropriated Fund Instrumentalities (NAFI) Financial System.

SYSTEM LOCATION:

Air Force Military Personnel Center, Randolph Air Force Base, TX 78150–6001, major commands headquarters and field operating agencies, and Air Force Morale NAIF when deemed appropriate and necessary and approved by the appropriate commander. System exists within approximately 500 NAFI which include resale and revenue-sharing NAFI, Morale, Welfare, and Recreation Fund (MWRF), and supplemental mission services NAFI. Official mailing addresses are published as an appendix to the Air Force's compilation of record systems notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All personnel who are members of membership associations or authorized patrons of any of the above NAFI, and with whom financial transactions are conducted including the extension of credit in accordance with Air Force regulations or those whose personal checks are returned to the NAFI by the banking system for such reasons as insufficient funds, closed accounts, invalid signatures, bank errors, etc. In accordance with appropriate Air Force regulations concerning NAFI participation, the above personnel may include, but are not limited to: Active duty and retired military members and their dependents; members of United States Reserve components and Federally recognized National Guard units; military members of foreign governments on duty with the Department of Defense (DOD); DOD civilians and their dependents; Federal Government employees working on military installations and their dependents, or retired Federal employees who were members/participants of a NAFI at time of retirement; contractor employees; technical representatives; and others who are authorized logistic support and work at the installation and where membership or usage would be in the best interest of the installation; commissioned members of the American Red Cross and United States Public Health Service, and the United States Environmental Sciences Administration; unremarried spouses and children of deceased active duty or retired members of the United States Armed Forces, and certain other categories of individuals identified by authorized personnel who directly support Air Force mission requirements. Also, all personnel employed by or assigned to the NAFI who are involved in financial transactions involving the NAFI whether internal or external, including but not limited to, the receipt or control of cash or other properties.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records resulting from financial transactions with authorized members, patrons, vendors, or those otherwise entitled to utilize or deal with a NAFI service. Such records include, but are not limited to: Subsidiary account ledgers maintained on individual members/authorized patrons who are charged dues and/or extended credit including the use of billeting type facilities prior to payment; form(s) on which a record of delinquent accounts or dishonored checks and their disposition are maintained, and records of package liquor or other sales or services. Records necessitated for or by internal/external financial record keeping or asset control, including but not limited to the receipt and control of cash; custody for tangible property, and any actions taken as a result of any irregularity.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 8013, Secretary of the Air Force: Powers and duties; delegation by; as implemented by Air Force Regulation 176–10, Financial Operations and Accounting Procedures, Air Force Manual 176–378, Standard Accounting Procedures for Nonappropriated Funds, and Executive Order 9397.

PURPOSE(S):

To record charges and credits of members and others authorized credit. To prepare billing statements or furnish data to an outside party to prepare billing statements. To maintain a record of returned checks. To assist in collecting all amounts due in accordance with established Air Force procedures. To compile a statistical quarterly report on returned checks and statistical data on delinquent accounts receivable for use with the financial reports. To verify eligibility to engage in financial transactions with NAFI, including package liquor and other sales and extension of credit. To form a data base within the financial system of the NAFI. Used by personnel responsible for conducting Air Force Morale, Welfare, and Recreation (MWR) financial transactions.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

The Department of the Air Force "Blanket Routine Uses" published at the beginning of the agency's compilation of record system notices apply to this system.

Records from this system may be disclosed to other government agencies, commercial or nonprofit concerns conducting activities in support of, similar to, or in furtherance of, the Air Force programs involved.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in visible file binders/cabinets, in computers and on computer output products.

RETRIEVABILITY:

Retrieved by name, membership organization account number, and/or Social Security Number.

SAFEGUARDS:

Records are accessed by person(s) responsible for servicing the record system in performance of their official duties and by authorized personnel who are properly screened and cleared for need-to-know. Records stored in locked rooms, cabinets, and in computer storage devices protected by computer system software.

RETENTION AND DISPOSAL:

Subsidiary accounts receivable are retained throughout the life cycle of credit sales and for as long as an individual remains in an active member/authorized patron status. Those forms used in connection with delinquent accounts or returned checks are retained until no longer needed. Records are destroyed by tearing into pieces, shredding, pulping, macerating or burning. Computer records are destroyed by erasing, deleting or overwriting.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Deputy Chief of Staff for Personnel, Randolph Air Force Base, TX 78150–6001.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information on them should address inquiries to the Assistant Deputy Chief of Staff for Personnel, Randolph Air Force Base, TX 78150–6001.

Individuals may also contact the appropriate Nonappropriated Fund Financial Management Branch or the

appropriate operating manager. Official mailing addresses are published as an appendix to the Air Force's compilation of record systems notices.

RECORD ACCESS PROCEDURES:

Individuals seeking to access records about themselves contained in this system should address requests to the Assistant Deputy Chief of Staff for Personnel, Randolph Air Force Base, TX 78150–6001.

Individuals may also contact the appropriate Nonappropriated Fund Financial Management Branch or the appropriate operating manager. Official mailing addresses are published as an appendix to the Air Force's compilation of record systems notices.

CONTESTING RECORD PROCEDURES:

The Air Force rules for access to records and for contesting and appealing initial agency determinations by the individual concerned are published in Air Force Regulation 12–35; 32 CFR part 806b; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Individual members/patrons/users of a service themselves, charge slips, payment receipts, checks, and other authorized financial forms and records.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

F176 AF MP B

SYSTEM NAME:

Nonappropriated Fund (AF NAF) Employee Insurance and Benefits System File, (50 FR 22520, May 29, 1985).

CHANGES:

SYSTEM NAME:

Delete current name and replace with "Nonappropriated Fund (NAF) Insurance and Employee Benefit System File"

SYSTEM LOCATION:

Delete entry and replace with "Air Force installations' Nonappropriated Fund Instrumentalities (NAFI), local Central Civilian Personnel Offices, and the Air Force Morale, Welfare and Recreation Center, Randolph Air Force Base, TX 78150–7000. Official mailing addresses are published an appendix to the Air Force's compilation of record systems notices."

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

In first sentence insert the word "regular" in front of "part-time."

CATEGORIES OF RECORDS IN THE SYSTEM:

In first sentence following "Retirement Program File" add "Unemployment Compensation File".

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Delete entry and replace with "5 U.S.C. 8171,Compensation for work injuries; generally; 8173, Liability under subchapter II exclusive; DOD Manual 1401.1–M; 10 U.S.C. 8013, Secretary of the Air Force: powers and duties, delegation by, as implemented by Air Force Regulations 40–7, Nonappropriated Funds Personnel Management and Administration, 34–3, Vol VIII, NAF Insurance Programs" and Executive Order 9397."

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ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Delete entry and replace with "The Department of the Air Force "Blanket Routine Uses" published at the beginning of the agency's compilation of record system notices apply to this system.

Information in the system may be disclosed to commercial concerns in actuarial evaluations, determination of eligibility, and amount of benefit payments due.

May be disclosed to Federal, state, and local governmental agencies in pursuit of their official duties.

The Workers' Compensation Claim File may be disclosed as required by law to the Department of Labor to ensure compliance with statutory requirements."

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SAFEGUARDS:

Delete entire and replace with "Records are accessed by custodian of the record system, by person(s) responsible for servicing the record system in performance of their official duties, who are properly screened and cleared for need-to-know. Records are stored in locked file containers, cabinets, vaults or rooms, and in computerized data storage devices controlled by computer system software."

RETENTION AND DISPOSAL:

Delete entry and replace with "At installation level, NAF Life and Health Insurance Program and NAF Retirement Program records are retired to National Personnel Records Center, 111 Winnebago Street, St. Louis, MO 62225–2001, upon employees separation, death, or retirement. At Headquarters Air Force level, NAF Retirement and Unemployment Compensation Programs records are retained for a minimum of 20 years upon an employee's withdrawal from the program. At Headquarters Air Force level, NAF Workers' Compensation Program records are retained for 3 years after file is closed, retired to National Personnel Records Center for 15 additional years, and then destroyed. For all systems, eventual destruction is by burning, shredding, pulping, or macerating. Computer records are destroyed by erasing, deleting or overwriting."

SYSTEM MANAGER(S) AND ADDRESS:

Change "Air Force Welfare Board" to, "Air Force Morale, Welfare and Recreation Center" and add "7000" to zip code."

NOTIFICATION PROCEDURE:

Delete entry and replace with "Individuals seeking to determine whether this system of records contains information on them should address inquiries to the system manager or to the local Central Civilian Personnel Office at installation of employment of individual making request.

Give name and Social Security Number (and date of accident or injury if related to worker's compensation claim)."

RECORD ACCESS PROCEDURES:

Delete entry and replace with "Individuals seeking to access records about themselves contained in this system should address requests to the system manager or to the local Central Civilian Personnel Office at installation of employment of individual making request.

Give name and Social Security Number (and date of accident or injury if related to worker's compensation claim). Government identification card, or vehicle driver's license is required for positive identification."

CONTESTING RECORD PROCEDURES:

Delete entry and replace with "The Air Force rules for access to records and for contesting and appealing initial agency determinations by the individual concerned are published in Air Force Regulation 12–35; 32 CFR part 806b; or may be obtained from the system manager."

* * * * *

F176 AF MP B

SYSTEM NAME:

Nonappropriated Fund (NAF) Insurance and Employee Benefit System File.

SYSTEM LOCATION:

Air Force installations' Nonappropriated Fund Instrumentalities (NAFI), local Central Civilian Personnel Offices, and the Air Force Morale, Welfare and Recreation Center, Randolph Air Force Base, TX 78150–7000. Official mailing addresses are published an appendix to the Air Force's compilation of record systems notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Regular full-time and regular part-time Air Force NAFI employees compose Air Force NAF Group Life and Health Insurance Program; regular full-time Air Force NAFI employees compose Air Force NAFI Retirement Program, and Air Force NAFI civilian employees who sustain job related illnesses or injuries in Workers' Compensation Program.

CATEGORIES OF RECORDS IN THE SYSTEM:

Group Life and Health Insurance Program File, Retirement Program File, Unemployment Compensation File, and Workers' Compensation Claim File, all of which consist of, but are not limited to the following: Applications and/or waivers of participation; notices of change of beneficiary; notices of termination of eligibility, disability and death; evidence of age and qualification for benefits; application for retirement; election to reinstate prior participation and survivor annuities; Social Security earnings data; employer certification of coverage; hospitalization and claims forms; report of accident or occupational illness; medical reports; payment forms; data for managing the Unemployment Compensation Program: Personal historical information, and other related correspondence.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 8171, Compensation for work injuries; generally; 8173, Liability under subchapter II exclusive; DOD Manual 1401.1–M; 10 U.S.C. 8013, Secretary of the Air Force: Powers and duties, delegation by, as implemented by Air Force Regulations 40–7, Nonappropriated Funds Personnel Management and Administration, 34–3, Vol VIII, NAF Insurance Programs, and Executive Order 9397.

PURPOSE(S):

Provides information for the administration of the programs, to determine eligibility and pay benefits due. It is used in statistical and actuarial evaluations of the programs. The information is used to insure compliance with applicable laws and adjudicate and pay claims.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

The Department of the Air Force "Blanket Routine Uses" published at the beginning of the agency's compilation of record system notices apply to this system.

Information in the system may be disclosed to commercial concerns in actuarial evaluations, determination of eligibility, and amount of benefit payments due.

May be disclosed to Federal, state, and local governmental agencies as required by law, and to the Department of Labor to ensure compliance with statutory requirements.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders, microform, in computers and on computer output products.

RETRIEVABILITY:

Retrieved by name or Social Security Number.

SAFEGUARDS:

Records are accessed by custodian of the record system, by person(s) responsible for servicing the record system in performance of their official duties, who are properly screened and cleared for need-to-know. Records are stored in locked file containers, cabinets, vaults or rooms, and in computerized data storage devices controlled by computer system software.

RETENTION AND DISPOSAL:

At installation level, NAF Life and Health Insurance Program and NAF Retirement Program records are retired to National Personnel Records Center, 111 Winnebago Street, St. Louis, MO 62225–2001, upon employees separation, death, or retirement. At Headquarters Air Force level, NAF Retirement and Unemployment Compensation Programs records are retained for a minimum of 20 years upon an employee's withdrawal from the program. At Headquarters Air Force level, NAF Workers' Compensation Program records are retained for 3 years after file is closed, retired to National Personnel Records Center for 15 additional years, and then destroyed. For all systems, eventual destruction is by burning, shredding, pulping, or macerating. Computer records are destroyed by erasing, deleting or overwriting.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Insurance and Employee Benefits, Air Force Morale, Welfare and Recreation Center, Randolph Air Force Base, TX 78150–7000.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information on them should address written inquiries to the Chief, Insurance and Employee Benefits, Air Force Morale, Welfare and Recreation Center, Randolph Air Force Base, TX 78150–7000 or to the local Central Civilian Personnel Office at installation of employment of individual making request.

Give name and Social Security Number (and date of accident or injury if related to worker's compensation claim).

RECORD ACCESS PROCEDURES:

Individuals seeking to access records about themselves contained in this system should address written requests to the Chief, Insurance and Employee Benefits, Air Force Morale, Welfare and Recreation Center, Randolph Air Force Base, TX 78150–7000 or to the local Central Civilian Personnel Office at installation of employment of individual making request.

Give name and Social Security Number (and date of accident or injury if related to worker's compensation claim). Government identification card, or vehicle driver's license is required for positive identification.

CONTESTING RECORD PROCEDURES:

The Air Force rules for access to records and for contesting and appealing initial agency determinations by the individual concerned are published in Air Force Regulation 12–35; 32 CFR part 806b; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Information obtained from the individuals and their survivors and beneficiaries; Department of Labor: Social Security Administration: previous employers; medical institutions, and any individual in a position to verify relevant information.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

F213 AFWB A

SYSTEM NAME:

Air Force Educational Assistance Loans, (51 FR 44337, December 9, 1986).

CHANGES:

Change System identification number to "F213 AFMWRC A"

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AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Change "10 U.S.C. 1082" to "10 U.S.C. 8013."

* * * * *

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Delete entry and replace with "The Department of the Air Force "Blanket Routine Uses" published at the beginning of the agency's compilation of record system notices apply to this system."

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RETRIEVABILITY:

Delete the word "Filed" and insert "Retrieved."

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SYSTEM MANAGER(S) AND ADDRESS:

Delete entry and replace with "Director, Morale/Welfare/Recreation Center, Randolph Air Force Base, TX 78150–7000."

NOTIFICATION PROCEDURE:

Delete entry and replace with "Individuals seeking to determine whether this system of records contains information about themselves should address inquiries to the Director, Morale/Welfare/Recreation Center, Randolph Air Force Base, TX 78150–7000."

RECORD ACCESS PROCEDURES:

Delete entry and replace with "Individuals seeking to access records about themselves contained in this system should address requests to the Director, Morale/Welfare/Recreation Center, Randolph Air Force Base, TX 78150–7000."

CONTESTING RECORD PROCEDURES:

Delete entry and replace with "The Air Force rules for access to records and for contesting and appealing initial agency determinations by the individual concerned are published in Air Force Regulation 12–35; 32 CFR part 806b; or may be obtained from the system manager."

* * * * *

F213 AFMWRC A

SYSTEM NAME:

Air Force Educational Assistance Loans.

SYSTEM LOCATION:

Air Force Morale/Welfare/Recreation Center, Randolph Air Force Base, TX 78150–7000.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Dependents of active duty Air Force military members who received educational assistance loans during 1961, 1962 and 1963.

CATEGORIES OF RECORDS IN THE SYSTEM:

Files contain loan agreement documents made with loan recipients; related documentation between Executive Secretariat/Air Force Morale and Welfare Center (AFMWC) and college/university registrars; retained copies of documents and correspondence received from or sent to loan recipients, and individual ledger cards reflecting accounting data.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 8013, Secretary of the Air Force: Powers and duties; delegation by.

PURPOSE(S):

Used for loan follow-up.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

The Department of the Air Force "Blanket Routine Uses" published at the beginning of the agency's compilation of record system notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in visible file binders/cabinets.

RETRIEVABILITY:

Retrieved by name.

SAFEGUARDS:

Records are accessed by custodian of the record system and by persons responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are stored in locked cabinets or rooms.

RETENTION AND DISPOSAL:

Files are retained until paid in full at which time the original loan agreement is returned to the loan recipient.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Morale/Welfare/Recreation Center, Randolph Air Force Base, TX 78150–7000.

NOTIFICATION PROCEDURES:

Individuals seeking to determine whether this system of records contains information about themselves should address inquiries to the Director, Morale/Welfare/Recreation Center, Randolph Air Force Base, TX 78150–7000.

RECORD ACCESS PROCEDURES:

Individuals seeking to access records about themselves contained in this system should address requests to the Director, Morale/Welfare/Recreation Center, Randolph Air Force Base, TX 78150–7000.

CONTESTING RECORD PROCEDURES:

The Air Force rules for access to records and for contesting and appealing initial agency determinations by the individual concerned are published in Air Force Regulation 12–35; 32 CFR part 806b; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Original loan agreements generated by the loan recipient; correspondence received from or sent to loan recipients; certifications from college/university registrars as to receipt of payment for tuition, school supplies and other educational expenses.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

F900 AFA B

SYSTEM NAME:

Thomas D. White National Defense Award, (50 FR 22561 May 29, 1985).

CHANGES:

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AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Change "10 U.S.C. 8012" to "10 U.S.C. 8013."

* * * * *

RETRIEVABILITY:

Insert the word "Retrieved" at beginning of entry.

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RETENTION AND DISPOSAL:

Add to end of entry "Records are destroyed by tearing into pieces, shredding, pulping, macerating or burning."

SYSTEM MANAGER(S) AND ADDRESS:

Delete entry and replace with "Deputy Chief of Staff/Plans and Programs (XP), USAF Academy, CO 80840–5000."

NOTIFICATION PROCEDURES:

Delete entry and replace with "Individuals seeking to determine whether this system of records contains information on them should address inquiries to the Deputy Chief of Staff/

Plans and Programs (XP), USAF Academy, CO 80840–5000."

RECORD ACCESS PROCEDURES:

Delete entry and replace with "Individuals seeking to access records about themselves contained in this system should address requests to the Deputy Chief of Staff/Plans and Programs (XP), USAF Academy, CO 80840–5000."

CONTESTING RECORD PROCEDURES:

Delete entry and replace with "The Department of the Air Force rules for access to records and for contesting and appealing initial agency determinations by the individual concerned are published in Air Force Regulation 12–35; 32 CFR part 806b; or may be obtained from the system manager."

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F900 AFA B

SYSTEM NAME:

Thomas D. White National Defense Award.

SYSTEM LOCATION:

United States Air Force Academy (USAF Academy), CO 80840–5000.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Living United States citizens who have contributed significantly to the national defense and security of the United States.

CATEGORIES OF RECORDS IN THE SYSTEM:

Nominations and supporting biographical information on nominees for the Thomas D. White Defense Award.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 8013, Secretary of the Air Force: Powers and duties; delegation by.

PURPOSE(S):

Data pertaining to the Thomas D. White National Defense Award is used by a selection board in identifying an appropriate recipient for the award. The elements, which may consist of citations, certificates, and/or trophies are prepared using information provided by the nominating activity.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

The Department of the Air Force "Blanket Routine Uses" published at the beginning of the agency's compilation of record system notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders and on microfiche.

RETRIEVABILITY:

Retrieved by name.

SAFEGUARDS:

Records are accessed by person(s) responsible for servicing the record system in performance of their official duties and by authorized personnel who are properly screened and cleared for need-to-know. Records are stored in locked rooms and cabinets.

RETENTION AND DISPOSAL:

Retained in office files until superseded, obsolete, no longer needed for reference, or on inactivation. Records are destroyed by tearing into pieces, shredding, pulping, macerating or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Chief of Staff/Plans and Programs (XP), USAF Academy, CO 80840–5000.

NOTIFICATION PROCEDURES:

Individuals seeking to determine whether this system of records contains information on them should address inquiries to the Deputy Chief of Staff/Plans and Programs (XP), USAF Academy, CO 80840–5000.

RECORD ACCESS PROCEDURES:

Individuals seeking to access records about themselves contained in this system should address requests to the Deputy Chief of Staff/Plans and Programs (XP), USAF Academy, CO 80840–5000.

CONTESTING RECORD PROCEDURES:

The Department of the Air Force rules for access to records and for contesting and appealing initial agency determinations by the individual concerned are published in Air Force Regulation 12–35; 32 CFR part 806b; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Information obtained from previous employers and from the individual.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 92–14084 Filed 06–19–92; 8:45 am]
BILLING CODE 3810–01–F

Department of the Army

Acquisition Information System (AAIS); Establishment

AGENCY: U.S. Army Armament, Munitions and Chemical Command, DOD.

ACTION: Notice of the establishment of the Acquisition Information System (AAIS).

SUMMARY: The AAIS system was established at AMCCOM to provide industry with an electronic access to various types of acquisition information currently requested/desired. The inherent user-friendly, menu-driven screens provide a procurement history option and a Performance Incentive Contracting (PIC) option in addition to the Advanced Planning Briefings for Industry (APBI) option which was released to industry last fall.

FOR FURTHER INFORMATION CONTACT: HQ, AMCCOM, ATTN: AMSM, Rock Island, IL 61299–6000, Karen Williams (309) 782–7647 or DSN 793–7647.

SUPPLEMENTARY INFORMATION: The procurement history option allows contractors access to a contractual history program which prompts the user for entry of an NSN and promptly displays the unit-price, award date, quantity and previous contractor relative to the last procurement. This on-line capability virtually eliminates a former restriction on the number of history requests that our local procurement history office allowed the contractor per day and gives the contractor significantly improved response times and limitless number of queries.

The PIC option is a program being tested at AMCCOM designed to obtain the best purchase value for the government after considering price and contractor performance history. The PIC option contains selections for policy, definitions, applicability, procedures and clause/provisional test.

The APBI option provides 5-year projected requirements for AMCCOM ammunition, weapons, and chemical items, as well as 1-year projected requirements for AMCCOM spare parts. It also contains a listing of upcoming conferences industry can attend and various publications for information purposes.

The information is available 24 hours a day, seven days a week to contractors who have access to a modem and a monitor. Access may be accomplished with a 1200 baud modem set-up to dial (309) 782–7648. Access parameters should be set at Full Duplex, No parity, 8

Character bits and 1 Stop bit. When prompted for a 'login' after a successful connection enter 'apbi' in lower case letters. In addition, two direct-line terminals have been installed in our reception area for those contractors who do not have access to this type computer equipment.

Plans to add additional options of interest to industry are in the analysis and design phase and will be fielded to industry upon completion of each new option.

Kenneth L. Denton,

Army Federal Register Liaison Officer.

[FR Doc. 92-14536 Filed 6-19-92; 8:45 am]

BILLING CODE 3710-08-M

Department of the Army

Notice of Open Meeting

AGENCY: Military Traffic Management Symposium, DOD.

ACTION: Notice of open meeting.

1. In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-462) announcement is made of the following committee meeting:

Name of the Committee: Military/Industry Mobile Homes Symposium.

Date of the Meeting: 16 July 1992.

Time: 0930-1530 hours.

Place: Headquarters, Military Traffic Management Command, Falls Church, VA.

Proposed Agenda

2. The purpose of the symposium is to provide an open discussion and free exchange of ideas with the public on procedural changes to the Personal property Traffic Management Regulation, DOD 4500.34R, and the handling of other matters of mutual interest concerning the Department of Defense Personal Property Moving and Storage Program.

3. All interested persons desiring to submit topics to be discussed should contact the Commander, Military Traffic Management Command, Attn: MTPP-M, at telephone number (703) 756-1600 between 0800-1630 hours. Topics to be discussed should be received on or before 18 June 1992.

Kenneth L. Denton,

Army Federal Register Liaison Officer.

[FR Doc. 92-14530 Filed 6-19-92; 8:45 am]

BILLING CODE 3710-08-M

Department of the Army

Board of Visitors, United States Military Academy; Open Meeting

In accordance with section 10(a)(20) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following meeting.

Name of Committee: Board of Visitors, United States Military Academy.

Date of Meeting: 29 July-1 August 1992.

Place of Meeting: West Point, New York.

Start Time of Meeting: 7:30 p.m.

Proposed Agenda: Observe Cadet Basic and Field Training; Issues Update; Briefings/Discussion on Academy Intercollegiate Athletic Program; and Cadet Extracurricular and Competitive Club Programs.

All proceedings are open. For further information, contact Lieutenant Colonel Stephen R. Furr, United States Military Academy, West Point, NY 10996-5000, (914) 938-5870.

For the Chairman of the Board of Visitors:

Stephen R. Furr,

Lieutenant Colonel, U.S. Army, Executive Secretary, USMA Board of Visitors.

[FR Doc. 92-14529 Filed 6-19-92; 8:45 am]

BILLING CODE 3710-08-M

Military Traffic Management Command Policy for Fuel Related Carrier Rate Changes

AGENCY: Military Traffic Management Command, DOD.

ACTION: Final policy for acquiring fuel related carrier rate adjustments.

SUMMARY: On September 23, 1991, MTMC requested comments from the public regarding the proposed policy for acquiring fuel related carrier rate adjustments. The policy allows for fuel related rate adjustment increases, for the domestic linehaul portions of carrier tenders during periods of fuel price shocks. The policy will apply to the unsolicited and solicited linehaul tenders of freight and household goods carriers by all participating modes. The responses to that public notice have provided additional information and identified issues for further clarification and consideration. This notice provides the final policy.

EFFECTIVE DATE: June 22, 1991.

FOR FURTHER INFORMATION CONTACT: Mr. Leonard Wright, MTIN-NG, Domestic Freight (703) 756-1585, Mr. Henry Speiler, MTPP-CD, Domestic Personal Property (703) 756-1190, or Mr. Melvin Williams, MTPP-CI, International Personal Property (703) 756-2383, Military Traffic Management Command, 5611 Columbia Pike, Falls Church, VA 22041-5050.

SUPPLEMENTARY INFORMATION:

I. Background

On September 23, 1991, MTMC published in the **Federal Register** (56 FR 47939) the proposed for acquiring fuel related carrier rate adjustments. Comments from the public were requested. The closing date for comments was October 23, 1991. Comments were received from 14 respondents: Eight from household goods carriers or forwarders, one from the Household Goods Carriers' Bureau/American Movers Conference and five from freight motor carriers or their representatives.

II. Discussion of Comments

The following discussion summarizes substantive comments and MTMC responses.

1. *Base Period:* Some respondents misunderstood the base period to be used for determining when fuel related adjustments should be considered. One respondent recommended that a July 1990 or July 1991 base period be used and that changes in prices should be measured in cents from those dates instead of percentage changes. The policy is not based upon adjustments from any set base period date. Under the policy, changes in fuel prices are measured only during the 12-week period immediately before a current week. Percentage changes in fuel prices that occur during the 12-week period are measured weekly and are used to decide whether consideration should be given to providing relief to carriers. Given this approach and varying levels of fuel prices, it is infeasible to measure the impact of changes on other than a percentage basis. Consideration of whether to grant relief would be immediate and would not require waiting 12 weeks as misinterpreted by some respondents. For example: a 15 percent or greater increase in one week or whenever during a current 12-week period would trigger immediate MTMC consideration of Phase I relief for carriers under the policy. MTMC believes the 12-week period is reasonable since it will be long enough to identify fuel price shocks, but not so long as to include more gradual changes in fuel costs. Changes in fuel costs over longer time periods are beyond the purpose of the policy, which is solely to provide reasonable relief to carriers for fuel price shocks (sudden, unexpected and sharp price increases) in order to maintain service to DOD during emergency situations.

2. *Relief for Phase I Shocks:* Many respondents suggested that carriers providing services to DOD under solicited rate programs, also should be provided relief under Phase I (brief/moderate) fuel price shocks. The policy is being established because it is recognized that carriers cannot be expected to anticipate fuel price shocks in developing their rates; however,

MTMC believes it is reasonable to expect carriers under solicited rate programs to assume a part of the risk of shocks since their rates should be based on longer-term cost and revenue considerations and are provided to DOD on a firm, fixed-price basis. These rates should be adequate to absorb brief/moderate shocks. In addition, it is not feasible to provide individual carrier rate adjustments, similar to that allowed unsolicited tender carriers under Phase I, to solicited tender carriers since it could result in carrier reranking and, in effect, be equivalent to resolicitation. MTMC will not renegotiate rates or rearrange initial low rate carriers based on rate increases allowed under this policy. Rate increases based on a rise in fuel prices will not result in the replacement of the low rate carrier(s).

3. *Automatic Implementation:* Certain respondents recommended that implementation of relief be made automatic. Under the policy, the decision to implement relief under Phase I or II is at the MTMC commander's discretion. This is reasonable since the commander must weigh other factors besides percentage changes in fuel prices such as the expected severity and length of the shock, regional variations in fuel costs and probable impact on national defense requirements before determining if implementation would be in the Government's interest. One respondent suggested that carriers be entitled to any extension of the adjustment period beyond the period when adjustments are needed to make up for any delay in implementation. MTMC disagrees because MTMC intends to implement and terminate relief on a timely basis as the fuel price situation warrants. Adjustments will be allowed only when determined by MTMC as necessary.

4. *Adjustment for International HHG:* A number of respondents suggested that MTMC provide relief for overseas fuel costs of international household goods forwarders. MTMC will continue to provide relief under the policy for the domestic portion of fuel costs associated with international household goods shipments and also will continue to permit a pass-through of related ocean carrier bunker fuel surcharges. This should provide forwarders adequate relief for the bulk of fuel costs related to providing international service. It is infeasible for MTMC to monitor overseas inland carrier fuel prices worldwide on a continuing basis.

5. *Provide Relief for Non-Shock Situations:* Some respondents suggested that relief should be provided for non-shock increases in fuel costs for carriers participating in MTMC's Guaranteed Traffic (GT) Program. This is a freight solicited tender program under which agreements may be for terms up to two years. MTMC will develop a standard cost escalation clause that will be used to provide relief for GT carriers for non-emergency increases in fuel and other operating costs. This clause is currently being developed and will not require any modification of this policy, which is solely intended to apply in emergency fuel price shock situations.

6. *Lower Percentage Criteria Levels:* A number of respondents recommended that the percentage criteria levels specified in the policy for Phases I and II be lowered. Some recommended that the Phase I criteria be lowered from 15 percent to 5 percent. Some of this concern was apparently based upon a mistaken interpretation that fuel prices would have to remain at or above the 15 percent level for 12 weeks before Phase I relief would be considered. As explained in paragraph 1 above, consideration of whether to grant relief would be immediate when fuel prices exceed the 15 percent level and would not require waiting 12 weeks for implementation. The criteria levels are based upon experience during the two fuel price shocks that occurred during 1989–1991 and are considered reasonable.

7. *Other Issues:* The following issues were also addressed by respondents:

a. *Blanket Tender:* Three respondents, who participated in the unsolicited tender programs, mistakenly assumed that they would have to submit rate adjustments on each tender under the policy and recommended that blanket rate adjustments be allowed. As was done during the 1990–91 Iraq Invasion fuel price shock, MTMC will continue under the policy to require unsolicited tender carriers to file a single blanket rate adjustment applicable to all tenders. This will speed processing of adjustments and reduce administrative complexity for the carriers and DOD.

b. *Pickup and Delivery from Storage-In-Transit (SIT):* Four respondents recommended that Phase adjustments be applied on pickup and delivery charges to and from SIT locations. MTMC will continue to allow fuel rate adjustments for the domestic portions of pickup and delivery charges from SIT as was done during the 1990–1991 Iraq Invasion shock.

c. *Provide Government Cost Projections:* One respondent recommended that the Government provide carriers its projections of fuel prices. Carriers may directly obtain information from the U.S. Department of Energy, such as the *Annual Energy Outlook,* on petroleum price trends. In addition, information on the outlook for fuel prices is extensively reported in the trade press and proprietary forecasts may be obtained from various commercial sources. Carriers must use their judgment in using these and other accessible information resources in developing their rates.

d. *Separate Program for Household Goods Carriers:* Two respondents recommended that a separate household goods fuel adjustment program be developed. This policy was developed in part because of concerns that differences between previous approaches used for MTMC freight and household goods programs could have resulted in nonstandard treatment between types of carriers. The policy standardizes the approach MTMC will use for handling fuel price shocks for both freight and household goods programs.

e. *Billing Procedures:* Two respondents suggested that reimbursement procedures for fuel rate adjustments were cumbersome and expensive to administer. It is essential that carriers clearly show on all Government Bills of Landing (GBLs) the amount of any fuel rate adjustment. This will ensure correct payment to the carrier and permit proper GBL audit. MTMC will keep these procedures as administratively simple as possible.

III. Implementation

On 4 March 1992, Commander, MTMC approved the policy for implementation upon publication in the **Federal Register.** The final policy has been modified only as necessary to clarify certain issues discussed above as well as other points. Implementing regulations for specific procedures for MTMC freight and personal property programs will be published in the **Federal Register** in the future for public comment. Current and future MTMC agreements and solicitations will be modified to reflect this policy.

IV. Final Policy

Subject: MTMC Policy for Fuel Related Carrier Rate Changes

Policy

Written provision will be made in MTMC regulations and solicited tender agreements for fuel related rate adjustment increases during periods of fuel price shocks (sudden, unexpected and sharp increases in fuel prices). Rate adjustments will be applied only in extraordinary circumstances which are deemed necessary to ensure that DOD

shipping continues without interruption. The policy will apply to the unsolicited and solicited line-haul tenders of freight and household goods carriers by all participating modes. Unsolicited tenders are submitted by freight carriers to MTMC under the Voluntary Tender Program for freight; solicited tenders are requested by MTMC and include tenders submitted under the Freight Guaranteed Traffic Program and the Domestic Household Goods Program. The policy applies to the domestic linehaul portions of carrier tenders, whether a shipment is domestic (interstate or intrastate) or international in nature. This includes pickup and delivery of household goods to and from domestic Storage-In-Transit locations. It does not apply to: (1) Any MTMC spot-bid programs (e.g., one-time-only moves, volume moves, mobile home program, and boat program), (2) the inland overseas fuel costs of international household goods carriers, or (3) to any MTMC passenger program. Rate adjustment increases will be allowed according to the following general guidelines:

1. A two-phased approach would be used. Phase I applies to brief/moderate fuel price shock situations occurring during the 12-week period immediately before the current week. Phase II applies to protracted shock situations exceeding 12 weeks in duration or shocks of extreme severity.

2. *Phase I (Brief/Moderate Shock):* MTMC will consider implementation of Phase I policies when fuel prices increase 15 percent or more (as measured by changes in the ICC diesel fuel price survey or other appropriate sources) during the 12-week period immediately before the current week.

a. *Unsolicited Tender Programs:* MTMC will allow reduced notification time for carriers to file temporary fuel related rate adjustments on unsolicited tenders. MTMC will specify notice requirements, rate adjustment frequency and termination dates and extend or cancel termination dates as it deems necessary. Carriers making adjustments will be required to issue blanket tenders for fuel related adjustments instead of submitting supplemental tenders on a per tender basis. Retroactive effective dates will not be permitted. Rate adjustments will apply to shipments picked up on or after the effective date of the adjustment and remain in effect until cancelled.

b. *Solicited Tender Programs:* Fuel rate adjustments on solicited rate programs will not be permitted during Phase I brief/moderate fuel price shocks.

3. *Phase II (Protracted/Extreme):* If the fuel price shock exceeds 25 percent (as measured by changes in the ICC diesel fuel survey or other appropriate survey), or if the fuel price shock of at least 15 percent, but less than 25 percent, exceeds 12 weeks in duration, MTMC will consider implementation of Phase II policies.

a. *Unsolicited Tender Programs:* As under Phase I, MTMC will continue to consider allowing periodic carrier fuel related rate adjustments. MTMC will extend or cancel rate adjustment termination dates as it deems necessary.

b. *Solicited Tender Programs:* Upon implementation of Phase II, MTMC will consider prescribing fuel rate adjustment inceases on solicited tenders. Prescribed rate adjustments will be established for different modes and, where necessary, types of rates, e.g., less than truckload (LTL), truckload (TL), etc., using a methodology developed by MTMC and the best information available. There will be no change in existing carrier rankings.

4. *Termination:* MTMC, at its discretion, may terminate fuel rate adjustments allowed under Phase I. Termination of Phase I will normally occur when fuel prices (as measured by changes in the ICC diesel fuel price survey or other appropriate survey) fall below the 15 percent level. Termination of Phase II will be considered: (1) When fuel prices fall below the 25 percent level during shocks lasting 12 weeks or less, (2) when fuel prices fall below 15 percent during shocks exceeding 12 weeks in duration. For newly solicited rate arrangements of cycles, MTMC will retain the option of allowing or not allowing existing fuel adjustments to be applied.

5. *Advance Notification.* Whenever possible, MTMC will provide advance notification to the Defense Logistics Agency and the services of fuel rate adjustments for both solicited and unsolicited rates. Advance notification may not be feasible in some emergency situations.

6. *Billing Procedures:* Carriers will clearly show on all affected Government Bills of Lading (GBLs) the amount of any fuel rate adjustment. MTMC will keep these procedures as simple as possible.

Discussion

Fuel price shocks are emergency situations characterized by sudden, unexpected and sharp increases in fuel prices requiring consideration of temporary rate relief for carriers. For the purposes of this policy, shocks are either: (1) *Brief/Moderate Shocks* during which fuel prices rise significantly, but return to their previous level within a period of twelve weeks or less, or (2) *Protracted/Extreme Shocks* in which fuel prices increase significantly or remain at high levels for more than twelve weeks. The primary objective of this policy is to maintain the quantity and quality of service to DOD while permitting avenues of relief for carriers faced with an unforeseeable and substantial increase in fuel cost after their rate filing. The intention is to provide the flexibility needed to accommodate both types of fuel price shocks, provide individual carriers reasonable relief from unforeseeable and sudden increases in fuel costs and minimize additional administrative workload. Unsolicited tender rates, which normally can be cancelled on 30-days notice, reflect short-term cost and revenue considerations. The reduced notification time allowed under the policy will permit unsolicited tender carriers to more quickly adjust their rates and maintain compensatory rate levels. These carriers will be allowed relief under both brief/moderate and protracted/extreme shock situations. Carrier rates provided under MTMC solicited tender rate programs, which include the Freight Guaranteed Traffic and the Domestic Household Goods programs, are established for periods from six to eighteen months or more. Carriers participating in these programs are presumed to have submitted long-term rates that are based on longer-term cost and revenue considerations. It is believed reasonable to limit relief to solicited tender carriers to protracted/extreme shock situations. MTMC prescription of fuel rate adjustments for solicited tender programs will ensure stability in these programs and eliminate the need to resolicit rates or rerank carriers. Rate adjustments for more gradual changes in carrier fuel and other costs over longer time periods are beyond the purpose of this policy, but may be considered under standard cost escalation clauses for MTMC rate agreements and solicitations. The policy also clarifies when termination of fuel rate adjustments would be considered by MTMC. This policy does not apply to MTMC spot-bid freight and personal property programs (e.g., one-time-only moves, volume moves, mobile home program, and boat program), because rates provided by carriers under these programs should reflect the most current fuel price levels and apply to immediate one-time-only DOD requirements. It does not apply to the inland overseas fuel costs of international household goods carriers since it is infeasible for MTMC to monitor overseas carrier fuel costs worldwide or to prescribe

reasonable adjustments for these carriers. The policy also does not apply to passenger carriers since they are at minimum financial risk because of the nature of the MTMC passenger traffic programs. These programs rely primarily on separate spot-bids for each movement or the Contract City Pair Program that allows for one-time price adjustment after the first six months of the one-year contract.

Kenneth L. Denton,

Army Federal Register Liaison Officer.

[FR Doc. 92-14525 Filed 6-19-92; 8:45 am]

BILLING CODE 3710-08-M

Corps of Engineers, Department of the Army

Intent to Prepare a Draft Environmental Impact Statement (DEIS) for the Boston Harbor Navigation Improvement Project

AGENCY: U.S. Army Corps of Engineers, DOD.

ACTION: Notice of intent.

SUMMARY: A draft and final Environmental Impact Statement (EIS) will be prepared for the proposed improvement dredging in Boston Harbor, Boston, Massachusetts. The proposed navigation improvement project in Boston Harbor is intended to increase the navigational efficiency and safety of Boston Harbor for the deep drafted vessels which currently transit the area. The local sponsor cost-sharing in this project is the Massachusetts Port Authority (MASSPORT).

The project would deepen part of the Reserved Channel to 40-feet MLW with the establishment of a small 40-foot deep turning area at the confluence of the Reserved and Main Ship Channels. Additionally, portions of the existing 35-foot Mystic and Chelsea River channels are proposed to be dredged to a depth of 40- and 38-feet MLW, respectively. The 35-foot deep confluence of these two upper harbor tributary channels (Inner Confluence) will also be dredged to a depth of 40-feet MLW. Approximately 2.1 million cubic yards of clay, rock, silt and silty-sand material will be generated from this project. It is anticipated to require one and one-half years of year-round dredging to complete the project using a mechanical bucket dredge and blasting rock where necessary. Concurrent with the deepening of the Federal channel, local interests (beneficiaries) must deepen berthing areas that are directly associated with navigation improvement channel work. The volume of this material is about 230,000 cubic yards. An additional 600,000 cubic yards of material is expected to be dredged by local interests from berthing areas not included in the project as beneficiaries.

The 1988 Feasibility Report proposed that local berthing material and the maintenance dredged material from the Federal channels be disposed of at the Massachusetts Bay Disposal Site and capped with the clean navigation improvement material. Other disposal alternatives will also be investigated.

FOR FURTHER INFORMATION CONTACT: Ms. Catherine Demos, Impact Analysis Division, U.S. Army Corps of Engineers, 424 Trapelo Road, Waltham, Massachusetts 02254-9149, Telephone No. (617) 647-8231.

SUPPLEMENTARY INFORMATION: A Feasibility Report, including an Environmental Assessment (EA) and Finding of No Significant Impact (FONSI), was prepared in August of 1988. This project was authorized in the 1990 Water Resources Development Act. As discussed above, and in the 1988 EA, the project was proposed to deepen the Mystic, Chelsea, and Reserved Channel in Boston Harbor. Disposal options considered included the Massachusetts Bay Disposal Site (MBDS). Contaminated material would be capped by the underlying clean sediments from the harbor. Other disposal options that were investigated are upland and nearshore sites.

Scoping meetings are anticipated to occur prior to the initiation of the draft EIS. All affected Federal, State, and local agencies will be asked to attend the scoping meetings. Other interested private and public organizations will also be invited. These meetings are expected to occur in June of this year.

The alternative analysis for dredged material disposal and the feasibility of capping in a deep water (100 meter) disposal site are expected to be some of the significant issues that will need to be addressed in the EIS. Scoping will determine any other issues not identified to date.

An Environmental Impact Report (EIR) is required under the Massachusetts Environmental Policy Act to be conducted by the local sponsor (MASSPORT). This EIS will be prepared as a joint EIS/EIR. It is estimated that the draft EIS/EIR will be available for public review in November of 1992.

James K. Hughes,

Lieutenant Colonel, Corps of Engineers Division Engineer.

[FR Doc. 92-14528 Filed 6-19-92; 8:45 am]

BILLING CODE 3710-24-M

DEPARTMENT OF EDUCATION

Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Notice of proposed information collection requests.

SUMMARY: The Director, Office of Information Resources Management, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1980.

DATES: Interested persons are invited to submit comments on or before July 22, 1992.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Dan Chenok: Desk Officer, Department of Education, Office of Management and Budget, 726 Jackson Place, NW., room 3208, New Executive Office Building, Washington, DC 20503. Requests for copies of the proposed information collection requests should be addressed to Cary Green, Department of Education, 400 Maryland Avenue, SW., room 5624, Regional Office Building 3, Washington, DC 20202.

FOR FURTHER INFORMATION CONTACT: Cary Green (202) 708-5174.

SUPPLEMENTARY INFORMATION: Section 3517 of the Paperwork Reduction Act of 1980 (44 U.S.C. chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Director of the Information Resources Management Service, publishes this notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g., new, revision, extension, existing or reinstatement; (2) Title; (3) Frequency of collection; (4) The affected public; (5) Reporting burden; and/or (6) Recordkeeping burden; and (7) Abstract. OMB invites public comment at the address specified above. Copies of the requests are available from Cary Green at the address specified above.

Dated: June 16, 1992.

Cary Green,

Director, Information Resources Management Service.

Office of Educational Research and Improvement

Type of Review: New.
Title: Digest of Education Statistics Readers Survey.
Frequency: One-Time.
Affected Public: Individuals or households.
Reporting Burden: Responses: 2,000.
Burden Hours: 200.
Recordkeeping Burden: Recordkeepers: 0.
Burden Hours: 0.
Abstract: The survey will be used to gather information about reader reaction to the 1992 edition of the Digest of Education Statistics. The survey will be inserted in the report.

Office of Postsecondary Education

Type of Review: Reinstatement.
Title: Certification of Funds and Data for the Endowment Challenge Grant Program.
Frequency: Annually.
Affected Public: Non-profit institutions.
Reporting Burden: Responses: 50.
Burden Hours: 25.
Recordkeeping Burden: Recordkeepers: 0.
Burden Hours: 0.
Abstract: The information collected will show the exact amount the funds the applicant has raised to qualify for matching funds under the Endowment Challenge Grant Program. The Department uses the information to determine the amount of the grant awards.

Office of Postsecondary Education

Type of Review: Extension.
Title: Application for the Comprehensive Program of the Fund for the Improvement of Postsecondary Education (New Grant Awards and Continuations).
Frequency: Annually.
Affected Public: State or local governments, Non-profit institutions, small businesses organizations.
Reporting Burden: Responses: 2,275.
Burden Hours: 27,150.
Recordkeeping Burden: Recordkeepers: 0.
Burden Hours: 0.
Abstract: This form will be used by postsecondary educational institutions and agencies to apply for funding under the Fund for Improvement of Postsecondary Education. The Department uses the information to make grant awards.

Office of Policy and Planning

Type of Review: New.
Title: Impacts of Open Enrollment on Minnesota School Districts.
Frequency: One-Time.
Affected Public: State or local governments.
Reporting Burden: Responses: 120.
Burden Hours: 180.
Recordkeeping Burden: Recordkeepers: 0.
Burden Hours: 0.
Abstract: The purpose of this data collection is to document the use and effects of educational choice options in the state that has made the most progress toward fully implementing educational choice for all families with school-age children. The major topic that this study will address is comparative impacts of interdistrict open enrollment on school districts.

Due to the fact that very little data exist on the implementation and impacts of educational choice initiatives, the information collected through this study will be of use and interest to a large number of audiences.

Office of Policy and Planning

Type of Review: New.
Title: Baseline Surveys for the School Dropout Demonstration Assistance Program Evaluation.
Frequency: Annually.
Affected Public: Individuals or households, state or local governments, non-profit institutions, small businesses or organizations.
Reporting Burden: Responses: 24,500.
Burden Hours: 16,863.
Recordkeeping Burden: Recordkeepers: 0.
Burden Hours: 0.
Abstract: This evaluation will examine the effects of dropout prevention programs. The information will help identify appropriate cost effective strategies for preventing students from leaving school and improving their performance in school.

[FR Doc. 92-14536 Filed 6-19-92; 8:45 am]
BILLING CODE 4000-1-M

DEPARTMENT OF ENERGY

Clean Coal Technology

AGENCY: Office of Fossil Energy, Department of Energy (DOE).

ACTION: Notice of availability of the final Program Opportunity Notice (PON).

SUMMARY: DOE is issuing the final Program Opportunity Notice (PON), No. DE-PS01-92FE62647. The final PON solicits proposals for cost-shared projects to demonstrate clean coal technologies that advance significantly the efficiency and environmental performance of coal using technologies. A total of $600 million (less approximately $30 million for DOE's administrative expenses and other matters) has been appropriated for financial assistance awards under this solicitation.

DATES: The Final Program Opportunity Notice will be issued on or before July 6, 1992, and the deadline for receipt of proposals is December 7, 1992, at 4:30 p.m. Washington, DC, time.

ADDRESS FOR OBTAINING FINAL PON: Written request must be sent to U.S. Department of Energy, P.O. Box 2500, Attn: Document Control Specialist, PR-33, Washington, DC 20585. Also copies may be picked up at the U.S. Department of Energy, Headquarters Procurement Operations, Document Control Specialist, Forrestal Building Room 1J-005, 1000 Independence Avenue, SW., Washington, DC, between the hours of 9 a.m. and 3 p.m., Monday through Friday except Federal holidays. The final PON is anticipated to be available on or after July 6, 1992. If you have received past solicitations and/or attended the 1991 Clean Coal Technology public meetings your name is already on our mailing list for the final PON.

SUPPLEMENTARY INFORMATION: On November 13, 1991, Public Law 102-154, "An Act Making Appropriations for the Department of the Interior and Related Agencies for the Fiscal Year Ending September 30, 1992, and for Other Purposes (the "Act"), was signed into law. This Act, among other things, provides funds to DOE to conduct cost-shared Clean Coal Technology (CCT) projects for the design, construction, and operation of facilities that "* * * shall advance significantly the efficiency and environmental performance of coal-using technologies and be applicable to either new or existing facilities * * *." The Act, together with Public Law 101-512, makes available a total of $600 million for a fifth general request for Proposals under the Clean Coal program. The Act also directs DOE to issue the final PON no later than July 6, 1992. A preproposal conference will be announced in the final PON. The final PON will establish a five month deadline for the submission of proposals (December 7, 1992). The evaluation and election of proposals is expected to be completed within five months after proposal submission (May 6, 1993).

FOR FURTHER INFORMATION CONTACT: Mr. Herbert D. Watkins, Tel. (202) 586-1026.

Scott Sheffield,

Acting Director, Program Support Division, Office of Placement and Administration.

[FR Doc. 92-14627 Filed 6-19-92; 8:45 am]

BILLING CODE 6450-01-M

Secretary of Energy Advisory Board; Open Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Public Law 92-463, 86 Stat. 770), notice is hereby given of the following advisory committee meeting:.

Name: Secretary of Engergy Advisory Board.

Date and Time: Friday, July 10, 1992, 8:30 a.m.-4:30 p.m.

Place: JW Marriott Hotel, Salon 1, 1331 Pennsylvania Avenue, NW., Washington, DC 20004, (202) 626-6976.

Contact: Dr. Jake W. Stewart, Designated Federal Officer, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-7092.

Purpose: The Board was established to serve as the Secretary of Energy's primary mechanism for long-range planning and analysis of major issues facing the Department of Energy. The Board will advise the Secretary on the research, development, energy and national defense responsibilities, activities, and operations of the Department and provide expert guidance in these areas to the Department.

Tentative Agenda

Friday, July 10, 1992, 8:30 a.m.-4:30 p.m.

8:30 a.m. Call to Order and Introductions Welcoming Remarks
9:15 a.m. Status Reports on SEAB Task Forces
11:00 a.m. Discussion
12:00 noon Lunch
1:15 p.m. Update on the National Energy Strategy
2:00 p.m. Presentations on Departmental Programs
3:30 p.m. Discussion of Future SEAB Activities
4:15 p.m. Public Comment (10 minute rule)
4:30 p.m. Adjourn

Public Participation: The meeting is open to the public. The Chairman of the Task Force is empowered to conduct the meeting in a fashion that will, in the Chairman's judgment, facilitate the orderly conduct of business.

Any member of the public who wishes to make an oral statement pertaining to agenda items should contact the Designated Federal Officer at the address or telephone number listed above. Requests must be received before 3 p.m. (E.D.T.) Thursday, July 2, 1992, and reasonable provision will be made to include the presentation during the public comment period. It is requested that oral presenters provide 15 copies of their statements at the time of their presentations.

Written testimony pertaining to agenda items may be submitted prior to the meeting. Written testimony must be received by the Designated Federal Officer at the address shown above before 5 p.m. (E.D.T.) Monday, July 6, 1992, to assure that it is considered by Board members during the meeting.

Minutes: A transcript of the meeting will be available for public review and copying approximately 30 days following the meeting at the Public Reading Room, 1E-190, Forrestal Building, 1000 Independence Avenue, SW, Washington, DC, between 8 am and 4 pm, Monday through Friday except Federal holidays.

Issued: Washington, DC, on: June 16, 1992.

Marcia L. Morris,

Deputy Advisory Committee Management Officer.

[FR Doc. 92-14629 Filed 6-19-92; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket Nos. CP91-780-000, CP91-780-002, CP91-780-003, CP91-2322-000, and CP91-2322-002]

Northwest Pipeline Corp. and Paiute Pipeline Co.; Environmental Workshops

June 16, 1992.

This is to inform all parties to the proceedings in the above dockets that the environmental staff of the Federal Energy Regulatory Commission (FERC) will conduct a number of meetings to discuss the content of various submittals required of Northwest Pipeline Corporation and Paiute Pipeline Company in response to the environmental conditions attached to their FERC Certificates. The first of these meetings will be held at 10 a.m. on June 30, 1992, continuing through July 2, as necessary, at the offices of the FERC. Although future meetings will not be noticed, parties can obtain a schedule of any proposed meetings during a specific month by contacting the FERC Environmental Project Manager at the beginning of that month. For further information, contact Ms. Lauren O'Donnell, Environmental Project Manager, at (202) 208-0874.

Lois D. Cashell,

Secretary.

[FR Doc. 92-14589 Filed 6-19-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. JD92-06945T, Louisiana-13]

State of Louisiana; NGPA Notice of Determination by Jurisdictional Agency Designating Tight Formation

June 16, 1992.

Take notice that on June 1, 1992, the Office of Conservation of the Department of Natural Resources for the State of Louisiana (Louisiana) submitted the above-referenced notice of determination pursuant to § 271.703(c)(3) of the Commission's regulations, that a part of the Hosston B Zone in Bienville Parish, Louisiana, qualifies as a tight formation under section 107(b) of the Natural Gas Policy Act of 1978. The area of application is described as:

T17N-R6W
Sections 11-14
T17N-R5W
Sections 7, 8, 17 and 18

The notice of determination also contains Louisiana's findings that the referenced part of the Hosston B Zone 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. 92-14590 Filed 6-19-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. EL92-33-000]

Barton Village, Inc., Village of Enosburg Falls Water & Light Department, Village of Orleans, and Village of Swanton, Vermont v. Citizens Utilities Co.; Filing

June 16, 1992.

Take notice that on June 5, 1992, Barton Village Inc., the Village of Enosburg Falls Water & Light Department, the Village of Orleans, and the Village of Swanton, Vermont (Vermont Villages or Villages) tendered for filing a complaint pursuant to Rules 205, 206, 207, 212 and 217 of the Commission's Rules of Practice and Procedure and sections 201, 205, 206, 306, 307 and 309 of the Federal Power Act (FPA) against Citizens Utilities Company (Citizens). Vermont Villages state that Citizens has failed to file rates for jurisdictional services it provides to the Vermont Villages, contrary to the FPA.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211

and 214 of the Commission's Rules of Practice and Procedures (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before July 16, 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. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. Answers to the complaint shall be due on or before July 16, 1992.

Lois D. Cashell,

Secretary.

[FR Doc. 92-14591 Filed 6-19-92; 8:45 am]

BILLING CODE 6717-01-M

Office of Conservation and Renewable Energy

[Case No. F-051]

Energy Conservation Program for Consumer Products: Granting of the Application for Interim Waiver and Publishing of the Petition for Waiver of DOE Furnace Test Procedures From Armstrong Air Conditioning, Inc.

AGENCY: Office of Conservation and Renewable Energy, Department of Energy.

SUMMARY: Today's notice publishes a letter granting an Interim Waiver to Armstrong Air Conditioning, Inc. (Armstrong) from the existing Department of Energy (DOE) test procedure regarding blower time delay for the company's GHC series of furnaces.

Today's notice also publishes a "Petition for Waiver" from Armstrong. Armstrong's Petition for Waiver requests DOE to grant relief from the DOE furnace test procedure relating to the blower time delay specification. Armstrong seeks to test using a blower delay time of 30 seconds for its GHC series of furnaces instead of the specified 1.5-minute delay between burner on-time and blower on-time. DOE is soliciting comments, data, and information respecting the Petition for Waiver.

DATES: DOE will accept comments, data, and information not later than July 22, 1992.

ADDRESSES: Written comments and statements shall be sent to: Department of Energy, Office of Conservation and Renewable Energy, Case No. F-051, Mail Stop CE-90, room 6B-025, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-0561.

FOR FURTHER INFORMATION CONTACT:

Cyrus H. Nasseri, U.S. Department of Energy, Office of Conservation and Renewable Energy, Mail Station CE-43, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-9127.

Eugene Margolis, Esq., U.S. Department of Energy, Office of General Counsel, Mail Station GC-41, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-9507.

SUPPLEMENTARY INFORMATION: The Energy Conservation Program for Consumer Products (other than automobiles) was established pursuant to the Energy Policy and Conservation Act (EPCA), Public Law 94-163, 89 Stat. 917, as amended by the National Energy Conservation Policy Act (NECPA), Public Law 95-619, 92 Stat. 3266, the National Appliance Energy Conservation Act of 1987 (NAECA), Public Law 100-12, and the National Appliance Energy Conservation Amendments of 1988 (NAECA 1988), Public Law 100-357, which requires DOE to prescribe standardized test procedures to measure the energy consumption of certain consumer products, including furnaces. The intent of the test procedures is to provide a comparable measure of energy consumption that will assist consumers in making purchasing decisions. These test procedures appear at 10 CFR part 430, subpart B.

DOE amended the prescribed test procedures by adding 10 CFR 430.27 on September 26, 1980, creating the waiver process. 45 FR 64108. Thereafter DOE further amended the appliance test procedure waiver process to allow the Assistant Secretary for Conservation and Renewable Energy (Assistant Secretary) to grant an Interim Waiver from test procedure requirements to manufacturers that have petitioned DOE for a waiver of such prescribed test procedures. 51 FR 42823, November 26, 1986.

The waiver process allows the Assist Secretary to waive temporarily test procedures for a particular basic model when a petitioner shows that the basic model contains one or more design characteristics which prevent testing according to the prescribed test procedures or when the prescribed test procedures may evaluate the basic model in a manner so unrepresentative of its true energy consumption as to provide materially inaccurate comparative data. Waivers generally remain in effect until final test procedure amendments become effective, resolving the problem that is the subject of the waiver.

The Interim Waiver provisions added by the 1986 amendment allow the Assistant Secretary to grant an Interim Waiver when it is determined that the applicant will experience economic hardship if the Application for Interim Waiver is denied, if it appears likely that the Petition for Waiver will be granted, and/or the Assistant Secretary determines that it would be desirable for public policy reasons to grant immediate relief pending a determination on the petition for Waiver. An Interim Waiver remains in effect for a period of 180 days or until DOE issues its determination on the Petition for Waiver, whichever is sooner, and may be extended for an additional 180 days, if necessary.

On March 20, 1992, Armstrong filed an Application for Interim Waiver regarding blower time delay. Armstrong's Application seeks an Interim Waiver from the DOE test provisions that require a 1.5-minute time delay between the ignition of the burner and starting of the circulating air blower. Instead, Armstrong requests the allowance to test using a 30-second blower time delay when testing its GHC series of furnaces. Armstrong states that the 30-second delay is indicative of how these furnaces actually operate. Such a delay results in an energy savings of approximately 0.6 percent. Since current DOE test procedures do not address this variable blower time delay, Armstrong asks that the Interim Waiver be granted.

Previous waivers for this type of timed blower delay control have been granted by DOE to Coleman Company, 50 FR 2710, January 18, 1985; Magic Chef Company, 50 FR 41553, October 11, 1985; Rheem Manufacturing Company, 53 FR 48574, December 1, 1988, 55 FR 3253, January 31, 1990, and 56 FR 2920, January 25, 1991; Trane Company, 54 FR 19226, May 4, 1989, and 56 FR 6021, February 14, 1991; Lennox Industries, 55 FR 50224, December 5, 1990; DMO Industries, 56 FR 4622, February 5, 1991; Heil-Quaker Corporation, 56 FR 6019, February 14, 1991; Carrier Corporation, 56 FR 6018, February 14, 1991; Inter-City Products Corporation, 55 FR 51487, December 14, 1991, and 56 FR 63945, December 6, 1991; Amana Refrigeration Inc., 56 FR 27958, June 18, 1991, and 56 63940, December 6, 1991; Snyder General Corporation, 56 FR 45960, September 9, 1991; Goodman Manufacturing Corporation, 56 FR 51713, October 15, 1991; Armstrong Air Conditioning, Inc., 57 FR 899, January 9, 1992; Thermo Products, Inc., 57 FR 903, January 9, 1992; and The Ducane Company, 56 FR 63943, December 6, 1991. Thus, it appears likely

that the Petition for Waiver will be granted for blower time delay.

In those instances where the likely success of the Petition for Waiver has been demonstrated based upon DOE having granted a waiver for a similar product design, it is in the public interest to have similar products tested and rated for energy consumption on a comparable basis.

Therefore, based on the above, DOE is granting Armstrong an Interim Waiver for its GHC series of furnaces. Pursuant to paragraph (e) of section 430.27 of the Code of Federal Regulations Part 430, the following letter granting the Application for Interim Waiver to Armstrong was issued.

Pursuant to paragraph (b) of 10 CFR 430.27, DOE is hereby publishing the "Petition for Waiver" in its entirety. The petition contains no confidential information. DOE solicits comments, data, and information respecting the petition.

Issued in Washington, DC, June 16, 1992.

J. Michael Davis,

Assistant Secretary, Conservation and Renewable Energy.

[FR Doc. 92-14633 Filed 6-19-92; 8:45 am]

BILLING CODE 6450-01-M

Office of Fossil Energy

Clean Coal Technology

ACTION: Notice of class deviations.

SUMMARY: The Department of Energy (DOE) announces that two class deviations have been approved which will maintain consistency with the terms and conditions used in previous Clean Coal Program Opportunity Notices (PONs) and achieve the objectives of the Clean Coal Technology Program.

DATES: The class deviation is effective July 6, 1992.

FOR FURTHER INFORMATION CONTACT: Herbert Watkins, PR-322.1, Department of Energy, 1000 Independence Avenue, SW. Washington, DC 20585, (202-586-1026).

TEXT: Supplementary Information: With respect to program income earned from any Demonstration Project activity during the term of the cooperative agreement, deviation is granted from 10 CFR 600.113(e) requiring Participants to account for such income by using it either to reduce total project costs, or to satisfy the Participant's share of project costs. This deviation will permit the Participant under the terms of the Model Cooperative Agreement to use the program income for any purpose.

Consistent with the provisions of Public Law No. 102-154 and prior law, deviation is also granted to 10 CFR 600.117 pertaining to use, management and disposition of property. With respect to property other than Government-furnished property, DOE will not have the right to direct the Participant to transfer title of property acquired in part with DOE funds to the Government.

Scott Sheffield,

Acting Director, Program Support Division, Office of Placement and Administration.

[FR Doc. 92-14628 Filed 6-19-92; 8:45 am]

BILLING CODE 6450-01-M

[FE Docket No. 92-67-NG]

Columbus Energy Corp.; Application for Blanket Authorization to Export Natural Gas to Mexico

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of application.

SUMMARY: The Office of Fossil Energy of the Department of Energy (DOE) gives notice of receipt on June 4, 1992, of an application filed by Columbus Energy Corp. (Columbus) requesting blanket authorization to export up to 100 Bcf of natural gas to Mexico over a two-year period commencing with the date of first delivery. Columbus intends to use existing pipeline facilities for transportation of the exported volumes and states that it will submit quarterly reports detailing each transaction.

The application was filed under section 3 of the Natural Gas Act and DOE Delegation Order Nos. 0204-111 and 0204-127. Protests, motions to intervene, notices of intervention and written comments are invited.

DATES: Protests, motions to intervene, or notices of intervention, as applicable, requests for additional procedures and written comments are to be filed at the address listed below no later than 4:30 p.m., eastern time, July 22, 1992.

ADDRESSES: Office of Fuels Programs, Fossil Energy, U.S. Department of Energy, Forrestal Building, room 3F-056, FE-50, 1000 Independence Avenue, SW. Washington, DC 20585.

FOR FURTHER INFORMATION CONTACT:

Charles E. Blackburn, Office of Fuels Programs, Fossil Energy, U.S. Department of Energy, Forrestal Building, room 3F-094, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-7751.

Diane Stubbs, Office of Assistant General Counsel for Fossil Energy, U.S. Department of Energy, Forrestal Building, room 6E-042, 1000 Independence Avenue, SW, Washington, DC 20585, (202) 586-6667.

SUPPLEMENTARY INFORMATION: Columbus, a Colorado corporation with its principal place of business in Denver, is a marketer of natural gas. Columbus asserts that the contractural arrangements will be the result of arms-length negotiations, with individually negotiated terms, including price and volume, and will be made with an emphasis on competitive prices and contract flexibility.

The export application will be reviewed under section 3 of the Natural Gas Act and the authority contained in DOE Delegation Order Nos. 0204-111 and 0204-127. In deciding whether the proposed export is in the public interest, domestic need for the natural gas will be considered, and any other issue determined to be appropriate, including whether the arrangement is consistent with DOE policy of promoting competition in the natural gas marketplace by allowing commercial parties to freely negotiate their own trade arrangements. Parties, especially those that may oppose this application, should comment on these matters as they relate to the requested export authority. The applicant asserts that there is no current need for the domestic gas that would be exported under the proposed arrangement. Parties opposing this arrangement bear the burden of overcoming this assertion.

NEPA Compliance

The National Environmental Policy Act (NEPA), 42 U.S.C. 4321 *et seq.*, requires DOE to give appropriate consideration to the environmental effects of its proposed actions. No final decision will be issued in this proceeding until DOE has met its NEPA responsibilities.

Public Comment Procedure

In response to this notice, any person may file a protest, motion to intervene or notice of intervention, as applicable, and written comments. Any person wishing to become a party to the proceeding and to have their written comments considered as the basis for any decision on the application must, however, file a motion to intervene or notice of intervention, as applicable. The filing of a protest with respect to this application will not serve to make the protestant a party to the proceeding, although parties and comments received from persons who are not parties will be considered in determining the appropriate action to be taken on the application. All protests, motions to intervene, notices of intervention, and written comments must meet the requirements that are specified by the regulations in 10 CFR part 590. Protests, motions to intervene, notices of intervention, requests for additional

procedures, and written comments should be filed with the Office of Fuels Programs at the address listed above.

It is intended that a decisional record on the application will be developed through responses to this notice by parties, including the parties' written comments and replies thereto. Additional procedures will be used as necessary to achieve a complete understanding of the facts and issues. A party seeking intervention may request that additional procedures be provided, such as additional written comments, an oral presentation, a conference, or trial-type hearing. Any request to file additional written comments should explain why they are necessary. Any request for an oral presentation should identify the substantial question of fact, law, or policy at issue, show that it is material and relevant to a decision in the proceeding, and demonstrate why an oral presentation is needed. Any request for a conference should demonstrate why the conference would materially advance the proceeding. Any request for a trial-type hearing must show that there are factual issues genuinely in dispute that are relevant and material to a decision and that a trial-type hearing is necessary for a full and true disclosure of the facts.

If an additional procedure is scheduled, notice will be provided to all parties. If no party requests additional procedures, a final opinion and order may be issued based on the official record, including the application and responses filed by parties pursuant to this notice, in accordance with 10 CFR 590.316.

A copy of Columbus' application is available for inspection and copying in the Office of Fuels Programs Docket Room, room 3F-056 at the above address. The docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC on June 16, 1992.

Anthony J. Como,

Director, Office of Coal & Electricity, Office of Fuels Programs, Office of Fossil Energy.

[FR Doc. 92-14630 Filed 6-19-92; 8:45 am]

BILLING CODE 6450-01-M

[FE Docket No. 91-110-NG]

Teco Gas Marketing Co.; Authorization to Export Natural Gas to Mexico

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of order.

SUMMARY: The Office of Fossil Energy of the Department of Energy gives notice that it has issued an order granting Teco Gas Marketing Company authorization to export to Mexico up to 146 Bcf of natural gas over a two-year period beginning on the date of the first delivery.

A copy of this order is available for inspection and copying in the Office of Fuels Programs Docket Room, room 3F-056 at the above address. The docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC on June 12, 1992.

Charles F. Vacek,

Deputy Assistant Secretary for Fuels Programs, Office of Fossil Energy.

[FR Doc. 92-14631 Filed 6-19-92; 8:45 am]

BILLING CODE 6450-01-M

[FE Docket PP-63-3]

Application to Amend Presidential Permit PP-63 by Northern States Power Company

AGENCY: Office of Fossil Energy, Department of Energy.

ACTION: Notice of application.

SUMMARY: On June 12, 1992, Northern States Power Company (NSP) applied to the Department of Energy (DOE) to amend Presidential Permit PP-63 in order to change the location of the proposed addition to the Forbes Substation from the north side of the substation to the west side of the substation.

DATES: Comment, protests or requests to intervene must be submitted on or before July 22, 1992.

ADDRESSES: Comments, protests or requests to intervene should be addressed as follows: Office of Coal & Electricity (FE-52), Office of Fuels Programs, Office of Fossil Energy, Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585.

FE Docket Number PP-63-3 should appear clearly on the envelope and the document contained therein.

FOR FURTHER INFORMATION CONTACT: William H. Freeman (Program Office) 202-586-5883 or Lisea Howe (Program Attorney) 202-586-2900.

SUPPLEMENTARY INFORMATION: On April 14, 1992, the DOE issued an order in FE Docket No. PP-63-2 to NSP amending Presidential Permit No. PP-63 which was issued on March 6, 1979. The facilities originally authorized by Presidential Permit PP-63 consist of one 500,000 volt (500-kV) overhead transmission line which crosses the U.S.-Canadian international border approximately seven and one half miles west of Warroad in Roseau County, Minnesota, and extends approximately 200 miles south of the Canadian border to a substation constructed in the vicinity of Forbes, Minnesota.

The amendment issued on April 14, 1992, authorized NSP, among other things, to add approximately 5-acres to the north side of the 30-acre Forbes Substation to house static VAR compensators (SVC). NSP now proposes that the 5 acre addition be constructed on the west side of the Forbes Substation with no new lines entering or exiting the facility.

Any person desiring to be heard or to protest this application should file a petition to intervene or protest at the address provided above in accordance with §§ 385.211 or 385.214 of the Rules of Practice and Procedure (18 CFR 385.211, 385.214).

Any such petitions and protests should be filed with the DOE on or before the date listed above. Additional copies of such petitions to intervene or protests also should be filed directly with David J. Fisher, Manager, New Facility Permitting, and Michael Connelly, Attorney, Northern States Power Company, 414 Nicollet Mall, Minneapolis 55401.

Pursuant to 18 CFR 385.211, protests and comments will be considered by the DOE in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene under 18 CFR 385.214. Section 385.214 requires that a petition to intervene must state, to the extent known, the position taken by the petitioner and the petitioner's interest in sufficient factual detail to demonstrate either that the petitioner has a right to participate because it is a State Commission; that it has or represents an interest which may be directly affected by the outcome of the proceeding, including any interest as a consumer, customer, competitor, or security holder of a party to the proceeding; or that the petitioner's participation is in the public interest.

A final decision will be made on this application after a determination is made by the DOE that the proposed amendment will not adversely impact on the reliability of the U.S. electric power supply system.

Before a Presidential permit may be issued or amended, the environmental impacts of the proposed DOE action must be evaluated pursuant to the National Environmental Policy Act of 1969 (NEPA). The NEPA compliance

process is a cooperative, non-adversarial process involving members of the public, state governments and the Federal government. The process affords all persons interested in or potentially affected by the environmental consequences of a proposed action an opportunity to present their views, which will be considered in the preparation of the environmental documentation for the proposed action. Intervening and becoming a party to this proceeding will not create any special status for the petitioner with regard to the NEPA process. Should a public proceeding be necessary in order to comply with NEPA, notice of such activities and information on how the public can participate in those activities will be published in the **Federal Register**, local newspapers and public libraries and/or reading rooms in the vicinity of the electric transmission facilities.

Copies of this application will be made available, upon request, for public inspection and copying at the address provided above.

Issued in Washington, DC, on June 16, 1991.

Charles F.Vacek,

Deputy Assistant Secretary for Fuels Programs, Fossil Energy.

[FR Doc. 92-14632 Filed 6-19-92; 8:45 am]

BILLING CODE 6450-01-M

Office of Hearings and Appeals

Cases Filed During the Week of May 22 Through May 29, 1992

During the Week of May 22 through May 29, 1992, the appeals and applications for other relief listed in the appendix to this Notice were filed with the Office of Hearings and Appeals Department of Energy. Submissions inadvertently omitted from earlier lists have also been included.

Under DOE procedural regulations, 10 CFR part 205, any person who will be aggrieved by the DOE action sought in these cases may file written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of the regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, DC 20585.

Dated: June 12, 1992.

George B. Breznay,

Director, Office of Hearings and Appeals.

LIST OF CASES RECEIVED BY OFFICE OF HEARING AND APPEALS

[Week of May 22 through May 29, 1992]

Date	Name and location of applicant	Case No.	Type of submission
May 7, 1992	Gulf/Deese's Grocery, Atlantic Beach, FL	RR300-168	Request for modification/rescission in the Gulf refund proceeding. If granted: The February 13, 1991 Dismissal Letter (Case No. RF300-13070) issued to Deese's Grocery would be modified regarding the firm's application for refund submitted in the Gulf refund proceeding.
May 12, 1992	Florida Airmotive, Inc., Lantana, FL	RR272-93	Request for modification/rescission in the Crude Oil refund proceeding. If granted: The April 8, 1992 Decision and Order (Case No. RF272-41373) issued to Florida Airmotive, Inc., would be modified regarding the firm's application for refund submitted in the Crude Oil refund proceeding.
May 26, 1992	Gulf/Radco Gulf Service, Atlantic Beach, FL	RR300-171	Request for modification/rescission in the Gulf refund proceeding. If granted: The May 20, 1992 Dismissal Letter (Case No. RF300-11805) issued to Rodco Gulf Service would be modified regarding the firm's application for refund submitted in the Gulf refund proceeding.
Do	Gulf/Parklane Gulf, Memphis, TN	RR300-169	Request for modification/rescission in the Gulf refund proceeding. If granted: The March 20, 1982 Dismissal Letter (Case No. RF300-12243) issued to Parklane Gulf would be modified regarding the firm's application for refund submitted in the Gulf refund proceeding.
May 27, 1992	Gulf/Red Barn Grocery, Atlantic Beach, FL	RR300-170	Request for modification/rescission in the Gulf refund proceeding. If granted: The April 6, 1992 Dismissal Letter (Case No. RF300-13167) issued to Red Barn Grocery would be modified regarding the firm's application for refund submitted in the Gulf refund proceeding.
Do	James L. Schwab, Spokane, WA	LFA-0213	Appeal of an information request denial. If granted: The May 11, 1992 Freedom of Information Request Denial issued by the Office of Intergovernmental and External Affairs would be rescinded, and James L. Schwab would receive a fee waiver.
May 28, 1992	Gulf/Hagood Oil Company, Inc., Washington, DC	RR300-165	Request for modification/rescission in the Gulf refund proceeding. If granted: The March 16, 1989 Decision and Order (Case No. RF300-4401) issued to Hagood Oil Company, Inc., would be modified regarding the firm's application for refund submitted in the Gulf refund proceeding.
Do	Gulf/Kahlert's Oil Company, Washington, DC	RR300-166	Request for modification/rescission in the Gulf refund proceeding. If granted: The February 18, 1989 Decision and Order (Case No. RF300-446) issued to Kahlert's Oil Co. would be modified regarding the firm's application for refund submitted in the Gulf refund proceeding.
Do	Gulf/Penrose Oil Company, Washington, DC	RR300-167	Request for modification/rescission in the Gulf refund proceeding. If granted: The June 5, 1989 Decision and Order (Case No. RF300-8014) issued to Penrose Oil Company would be modified regarding the firm's application for refund submitted in the Gulf refund proceeding.

LIST OF CASES RECEIVED BY OFFICE OF HEARING AND APPEALS—Continued

[Week of May 22 through May 29, 1992]

Date	Name and location of applicant	Case No.	Type of submission
Do.	Gulf/Quick Oil Company, Washington, DC	RR300-163	Request for modification/rescission in the Gulf refund proceeding. If granted: The March 21, 1989 Decision and Order (Case No. RF300-163) issued to Quick Oil Company would be modified regarding the firm's application for refund submitted in the Gulf refund proceeding.
Do.	Gulf/Schneekloth Oil Company, Washington, DC	RR300-162	Request for modification/rescission in the Gulf refund proceeding. If granted: The January 6, 1989 Decision and Order (Case No. RF300-3516) issued to Schneekloth Oil Company would be modified regarding the firm's application for refund submitted in the Gulf refund proceeding.
Do.	Gulf/Standish Oil Company, Washington, DC	RR300-164	Request for modification/rescission in the Gulf refund proceeding. If granted: The June 23, 1989 Decision and Order (Case No. RF300-8403) issued to Standish Oil Company would be modified regarding the firm's application for refund submitted in the Gulf refund proceeding.

REFUND APPLICATIONS RECEIVED

[Week of May 22 to May 29, 1992]

05/26/92	Forest Hulings Service Station.	RF304-13135
05/26/92	Alex Richfield	RF304-13136
05/26/92	Allegheny Service.	RF304-13137
05/26/92	Gabe's Disneyland Arco #1.	RF304-13138
05/26/92	Gabe's Disneyland Arco #2.	RF304-13139
05/26/92	Gabe's Arco #2	RF304-13140
05/26/92	Lambert's Service, Inc.	RF304-13141
05/26/92	Layton Service	RF304-13142
05/26/92	M&M Arco	RF304-13143
05/26/92	Turin Road Arco	RF304-13144
05/26/92	Easy Times Arco	RF304-13145
05/26/92	Shenandoah Oil Company.	RF315-10211
05/26/92	Northern Illinois Gas Company.	RF342-215
05/26/92	Texas City Refining, Inc.	RF345-1
05/27/92	Country Club Exxon, Inc.	RF307-10214
05/29/92	Salt River Proj Agricultural.	RF338-4
05/22/92 thru 05/29/92.	Crude Oil refund applications received.	RF272-92442 thru RF272-92472
05/22/92 thru 05/29/92.	Texaco refund applications received.	RF321-18633 thru RF321-18655
05/22/92 thru 05/29/92.	Gulf Oil refund applications received.	RF300-20022 thru RF300-20048

[FR Doc. 92-14635 Filed 6-19-92; 8:45 am]

BILLING CODE 6450-01-M

Issuance of Decisions and Orders During the Week of May 11 Through May 15, 1992

During the Week of May 11 through May 15, 1992, the decisions and orders summarized below were issued with respect to applications for relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Refund Applications

Atlantic Richfield Co./S.B. Collins, Inc., 5/13/92, RF304-6238

The DOE issued a Decision and Order granting a refund of $41,447 ($26,756 in principal and $14,691 and accrued interest) to S.B. Collins, Inc. (Collins) in the Atlantic Richfield Co. special refund proceeding. The Collins refund was based upon purchases of 36,402,660 gallons of ARCO motor gasoline. Collins submitted data which showed banks of unrecovered increased product costs substantially in excess of its full allocable share of the ARCO consent order fund. In addition, a competitive disadvantage analysis showed that the firm paid ARCO prices that were uncompetitively high during the refund period. Accordingly, Collins was granted to full volumetric refund.

EXXON Corporation/Boston Edison Company, 5/13/92, RF307-10193

The DOE issued a Decision and Order concerning an Application for Refund filed by Boston Edison Company, an electric utility located in Boston, MA. Boston Edison sought a portion of the settlement fund obtained by the DOE as a result of a consent order entered into by Exxon Corporation. Since Boston Edison is a public utility, it was not required to submit a detailed demonstration of injury in support of its refund claim. Applying the criteria established to govern refund claims advanced by utilities in the Exxon proceeding, the DOE granted Boston Edison a refund of $187,071 ($125,796 principal and $61,275 interest). The DOE also served formal notice that the Exxon special refund proceeding is closed to the filing of additional refund claims. Any undisbursed funds in the Exxon escrow account will be made available for indirect restitution pursuant to the Petroleum Overcharge Distribution and Restitution Act of 1986, 15 U.S.C.A. 4501.

Murphy Oil Company/Chevron South, Chevron U.S.A., Inc., 5/13/92, RF309-886, RF309-1191

The DOE issued a Decision and Order concerning the Applications for Refund filed in the Murphy Oil Company special refund proceeding by two commonly owned firms: Chevron South and Chevron U.S.A., Inc. After Chevron U.S.A., Inc. withdrew its claim to demonstrate economic injury because of inadequate records, OHA combined the purchase volumes of Chevron South and Chevron U.S.A., Inc. in order to determine their full allocable share and the appropriate presumption of injury. Together the firms purchased 196,964,808 gallons, which entitles them to receive the maximum refund amount under the mid-level presumption. Accordingly, Chevron U.S.A., Inc. was granted a refund of $72,310 ($50,000 principal and $22,310 interest).

Rohm and Hass Co., 5/11/92, *RC272-00157*

The DOE issued a Supplemental Order concerning a Decision and Order dated February 10, 1992, granting a refund to Rohm and Hass Co. (R&H), Case No. RF272-25263. In that Decision, the DOE granted R&H a crude oil refund of $355,376 based on purchases of 444,220,544 gallons of refined petroleum products. Subsequently, R&H informed the DOE that its refund application had overstated purchase figures for several products because the firm had failed to convert quantities from pounds to gallons. R&H stated that its purchases of all petroleum products during the relevant period actually totalled 293,007,499 gallons, 151,213,045 gallons less than initially claimed. Based on this received information, the DOE

determined that R&H was entitled to received a total refund of $234,406. Consequently, the DOE directed R&H to remit $120,970 in principal and $1,011 in interest.

Shell Oil Company/Amoco Corporation, 5/13/92, RF315-6734

The DOE issued a Decision and Order granting, in part, an Application for Refund filed in the Shell Oil Company special refund proceeding on behalf of Amoco Corporation (Amoco). The DOE determined that Amoco's claim based upon 10,500,000 gallons of Shell refinery feedstock (unfinished oils) should be denied as the firm purchased these products after the September 1, 1976 decontrol date. In addition, the DOE denied Amoco a refund based on 28,050,002 gallons of Shell products that the firm purchased on the spot market. As documentation of the firm's remaining purchases of 4,139,941 gallons, the firm submitted computer printouts from Shell's customer records. Therefore, the DOE granted the firm a refund of $1,590 ($1,105 principal and $485 in interest).

Texaco Inc./Westport Texaco, Stuck's Texaco Service, Vincent's Texaco #1, Vincent's Texaco #2, Vincent's Texaco #3, 5/11/92, RF321-1503, RF321-1964, RF321-1994, RF321-1995, RF321-1996

The DOE issued a Decision and Order concerning five Applications for Refund filed in the Texaco Inc. special refund proceeding on behalf of five Texaco outlets. Despite requests for information, none of the applicants provided any documentation that would adequately establish that he operated his outlet and purchased Texaco products at any time during the refund period. Accordingly, the five applications were denied.

Refund Applications

The Office of Hearings and Appeals issued the following Decisions and Orders concerning refund applications, which are not summarized. Copies of the full texts of the Decisions and Orders are available in the Public Reference Room of the Office of Hearings and Appeals.

Atlantic Richfield Company/ Carter's Arco.	RR304-32	5/14/92
Atlantic Richfield Company/ Mayfair Servicenter *et al.*	RF 304-3273	5/11/92
City of New York.	RA272-50	5/12/92
Enron Corp./ De Reu Skelgas, Co..	RF340-34	5/11/92
Enron Corp./ Glenn A. Evans D/B/ A Evans Oil Company.	RF340-49	5/13/92
Enron Corp./ Richard E. Cummings D/B/A Northern L.P. Gas Co.	RF340-27	5/12/92
Enron Corp./ Service Gas, Inc.	RF340-52	05/12/92
Enron Corp. Southwest Butane Co.	RF340-47	5/15/92
Gulf Oil Corporation/Berry's Gulf *et al.*	RF300-14078	5/14/92
Gulf Oil Corporation/Hope Mills Gulf Service *et al.*	RF300-13319	5/13/92
Gulf Oil Corporation/Jersey Central Power and Light Co.	RF300-15273	5/12/92
Gulf Oil Corporation/R&S Gulf Service.	RF300-19926	5/12/92
Gulf Oil Corporation/Zerbey Oil Corporation.	RF300-11427	5/12/92
Bourdo Oil Corporation.	RF300-15022	.....
Midwest Industrial Fuel, Inc. *et al.*	RF272-67195	5/12/92
Noble Drilling Corp. *et al.*	RF272-60527	5/15/92
Noble Drilling Corporation.	RD272-60527	5/15/92
Our Lady of Perpetual Help *et al.*	RF272-77863	5/14/92
St. Gregory the Great Church *et al*	RF272-77739	5/14/92
St. John Kanty R.C. Church *et al.*	RF272-77784	5/14/92
St. Joseph Catholic Church *et al.*	RF272-77629	5/14/92
Texaco Inc./ East Hill Texaco *et al.*	RF321-1946	5/15/92
Texaco Inc./ Mike Rose Oil Co.	RF321-13510	5/12/92
Texaco Inc./ Perrone Oil Co.	FR321-13974	5/15/92
Texaco Inc./ Slepoy Realty Corporation *et al.*	RF321-8125	5/14/92
Texaco Inc./ Trimble's Texaco *et al.*	RF321-1424	5/12/92

Dismissals

The following submissions were dismissed:

Name	Case No.
Antley's Texaco Service Station	RF321-10537
Autoland Shell, Inc	RF315-126
Beaufort Texaco	RF321-10322
Bill's Markette	RF321-10380
Billerman's Texaco	RF321-10376
Boswell's Texaco Service	RF321-10382
Bowman's North Main Texaco	RF321-10320
Boyd's West Side Texaco Serv	RF321-10321
Brannock's Texaco	RF321-10323
Brock Oil Co., Inc	RF330-61
Brundrett Texaco	RF321-10327
Cammisa's Garage	RF321-10335
Carbaugh's Texaco Service Station.	RF321-10339
Carson Petroleum Company	RF330-53
Choffel Texaco	RF321-10349
Christensen Oil Co	RF321-10350
David W. Butts	RF304-10267
Donald Bouch's Texaco	RF321-10383
Earling Texaco	RF321-10325
Farrami & Sons, Inc	RF300-11776
First Capital Texaco	RF321-10381
Franklin Texaco	RF321-10347
George's Bailey's Texaco	RF321-10362
Glenwood Texaco	RF321-10370
Hyun Sik Pak	RF304-12812
James Andrew's Texaco	RF321-10356
Oakwood Service Station	RF321-10351
Ron Babula's Texaco Service Center.	RF321-10360
The Robinson-Ransbottom Pottery Company.	RF272-75527
Tony's Gas House	RF321-10336
Tri D Car Wash	RF321-4138
Truck Port	RF321-10361
Trucker's Center Texaco	RF321-10346
William Burke's Texaco	RF321-10331
Wilmouth Gulf Service	RF300-14776

Copies of the full text of these decisions and orders are available in the Public Reference Room of the Office of Hearings and Appeals, room 1E-234, Forrestal Building 1000 Independence Avenue, SW., Washington, DC 20585, Monday through Friday, between the hours of 1 p.m. and 5 p.m., except federal holidays. They are also available in Energy Management: Federal Energy Guidelines, a commercially published loose leaf reporter system.

Dated: June 15, 1992.

George B. Breznay,

Director, Office of Hearings and Appeals.

[FR Doc. 92-14636 Filed 6-19-92; 8:45 am]

BILLING CODE 6450-01-M

Final Filing Deadline in Special Refund Proceeding No. HEF-0590 Involving Gulf Oil Corp.

AGENCY: Office of Hearings and Appeals, Department of Energy.

ACTION: Notice of setting final deadline for filing Applications for Refund in Special Refund Proceeding HEF-0590, Gulf Oil Corporation.

SUMMARY: The Office of Hearings and Appeals (OHA) of the Department of Energy (DOE) has set the final deadline for filing Applications for Refund from the escrow account established pursuant to a consent order entered into between the DOE and Gulf Oil Corporation (Gulf), Special Refund Proceeding No. HEF-0590. The previous deadline was June 30, 1988. The new final deadline is March 1, 1993.

FOR FURTHER INFORMATION CONTACT: Thomas L. Wieker, Deputy Director, Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-2390.

SUPPLEMENTARY INFORMATION: On September 8, 1987, the Office of Hearings and Appeals of the Department of Energy issued a Decision and Order setting forth final refund procedures to distribute the monies in the oil overcharge escrow account established in accordance with the terms of a Consent Order entered into by the Department of Energy and the Gulf Oil Corporation. Gulf Oil Corporation, 16 DOE ¶85,381 (1987), 52 FR 34837 (September 15, 1987). That Decision established June 30, 1988, as the filing deadline for the submission of refund applications for direct restitution by purchasers of Gulf's refined petroleum products. 16 DOE at 88,742, 52 FR 34842.

We commenced accepting refund applications in the Gulf refund proceeding on September 8, 1987, more than four years ago. While the originally-announced deadline for such submissions was June 30, 1988, we have continued to liberally accept applications after the deadline. However, we have now concluded that eligible applicants have been provided with more than ample time to file. Therefore, we will not accept applications that are postmarked after March 1, 1993. All applications for Refund from the Gulf Consent Order fund postmarked after the final filing date of March 1, 1993, will be summarily dismissed. Any unclaimed funds remaining after all pending claims are resolved will be made available for indirect restitution pursuant to the Petroleum Overcharge Distribution and Restitution Act of 1986, 15 U.S.C. 4501.

Dated: June 15, 1992.

George B. Breznay,

Director, Office of Hearings and Appeals.

[FR Doc. 92-14637 Filed 6-19-92; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

(FRL-4146-1)

Agency Information Collection Activities Under OMB Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and its expected cost and burden.

DATES: Comments must be submitted on or before July 22, 1992. For further information, or to obtain a copy of this ICR, contact Sandy Farmer at EPA, (202) 260-2740.

SUPPLEMENTARY INFORMATION:

Office of Pesticides and Toxic Substances

Title: Notification of Substantial Risks Under Section 8(e) of the Toxic Substances Control Act (TSCA)—(EPA ICR No.: 0794.04; OMB No.: 2070-0046). This is an extension of the expiration date of a currently approved collection.

Abstract: Under Section 8(e) of TSCA, chemical manufacturers, importers, processors, and distributors must immediately inform EPA when they obtain information which indicates that their produc1(s) may present a substantial risk of injury to health or the environment. The Agency estimates that 200 respondents will submit an initial TSCA section 8(e) report and 200 respondents will be involved in required follow-up/supplemental submission of information. The EPA and other federal agencies use this information to determine and control chemical risks.

Burden Statement: The annual public reporting burden for this collection of information is estimated to average 21 hours per initial section 8(e) submission affecting 200 respondents, and 4 hours per follow-up/supplemental section 8(e) submission affecting 200 respondents. This estimate includes the time needed to review instructions, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Respondents: Chemical Manufacturers, importers, processors, and distributors.

Estimated No. of Respondents: 400.

Estimated No. of Responses Per Respondent: 1.

Estimated Total Annual Burden on Respondents: 5,000 hours.

Frequency of Collection: On occasion.

Send comments regarding the burden estimate, or any other aspect of the information collection, including suggestions for reducing the burden to:

Sandy Farmer, U.S. Environmental Protection Agency, Information Policy Branch (PM 223Y), 401 M Street, SW., Washington, DC 20460

and

Matthew Mitchell, Office of Management and Budget, Office of Information and Regulatory Affairs, 725 17th Street, NW., Washington, DC 20503.

Dated: June 16, 1992.

Paul Lapsley,

Director, Regulatory Management Division.

[FR Doc. 92-14598 Filed 6-19-92; 8:45 am]

BILLING CODE 6560-50-M

[AMS-FRL-4146-2]

Air Pollution Control; Motor Vehicle Emission Factors

AGENCY: Environmental Protection Agency.

ACTION: Notice of public workshop.

SUMMARY: the Environmental Protection Agency (EPA) is now in the process of revising the highway vehicle emission factor model. The current version of the model, MOBILE4.1, was finalized last year and is being used to develop 1990 base year emission inventories required by the Clean Air Act Amendments of 1990. EPA will update this model with a new release, MOBILE5, this summer. This notice announces a second public workshop for the purpose of discussing the issues involved in updating the model.

DATES: The workshop will be Wednesday, July 8, 1992, from 10 a.m. to 4:30 p.m. (EDT).

ADDRESSES: The workshop will be held at the Ulrich Conference Center (off Lobby E) at Domino's Farms, 24 Frank

Lloyd Wright Drive, Ann Arbor, MI 48105. Telephone: (313) 930-5900.

FOR FURTHER INFORMATION CONTACT: Ms. Lois Bivins, U.S. EPA, Office of Mobile Sources, Emission Planning and Strategies Division, Air Quality Analysis Branch, 2565 Plymouth Road, Ann Arbor, MI 48105. Telephone (313) 668-4325; fax (313) 668-4368.

SUPPLEMENTARY INFORMATION: Under Section 130 of the Clean Air Act Amendments of 1990, EPA was required to review, and revise if necessary, the emission factors used to estimate emissions of volatile organic compounds (VOC), carbon monoxide (CO), and oxides of nitrogen (NO_x) from area and mobile sources. For highway mobile sources, emission factors for these pollutants are estimated using the highway vehicle emission factor model. This model, first developed in the late 1970s, has been revised periodically to reflect changes in vehicle technology and emission standards, and to incorporate additional data from EPA's emission factor testing programs.

In response to this requirement, EPA released the final version of MOBILE4.1 in 1991. MOBILE4.1 was developed to provide the most accurate modeling of base year (1990) emission factors, and hence highway mobile source emission inventories, at the time of its release, since these inventories will constitute the basis for much of the modeling required in the future. EPA's announced policy has been that this version of the model must be used by States and others with responsibility for preparing 1990 base year emission inventories for those areas in non-attainment for the National Ambient Air Quality Standards for ozone and CO. (MOBILE5 can be used for the 1990 inventories to be submitted to EPA by November 15, 1992, but use of MOBILE5 will not be required by EPA until after that.) MOBILE4.1 did not include modeling of all of the future vehicle and fuel requirements contained in the 1990 Clean Air Act Amendments, as noted in the **Federal Register** notice of the model's availability (56 FR 42053, August 26, 1991).

In addition to the base year emission inventory requirements, non-attainment areas are required to develop projection (future) year emission inventories. The construction of projection inventories for highway mobile source, a significant contributor to overall emissions, requires development of another version of the highway vehicle mobile source emission factor model reflecting the 1990 Clean Air Act Amendment requirements for new vehicles, engines, and fuels. This version of the model, MOBILE5, is now being developed.

EPA plans to release MOBILE5 in draft form shortly after this workshop. At the workshop, EPA will explain the new features of the model and new methodologies and treatments of data used in estimating emission factors. Numerical values (revised emission factors) will also be presented and discussed to the extent that they have been determined and can be prepared for presentation.

Comments will be accepted from the audience at the workshop. Such comments may be reflected in the draft version of MOBILE5 to be released shortly after the workshop, if such comments are clearly appropriate and can be implemented in time for inclusion in the draft release of the model. Other comments received at the workshop, and written comments submitted after the workshop, will be evaluated and considered for inclusion in the final version of MOBILE5, to be released by August 31, 1992. Release of the final version of the model will be announced by notice in the **Federal Register.**

The release of a draft version of the model is intended to provide the user community with the opportunity to examine the model and run it for various scenarios, so that any technical errors in the program may be brought to EPA's attention and corrected in the final version of the model.

Dated: June 16, 1992.

Michael Shapiro,

Acting Assistant Administrator, Office of Air and Radiation.

[FR Doc. 92-14597 Filed 6-19-92; 8:45 am]

BILLING CODE 6560-50-M

[AMS-FRL-4146-3]

Nonroad Engines and Vehicles; Meeting

AGENCY: Environmental Protection Agency.

ACTION: Notice of meeting.

SUMMARY: On June 30, 1992, the Environmental Protection Agency (EPA) will meet with representatives of the Outdoor Power Equipment Institute (OPEI) and the Engine Manufacturers Association (EMA) to discuss the technical characteristics, emissions, and general regulatory issues related to nonroad engines under 50 horsepower. EPA is planning to attend this meeting at the request of industry representatives.

DATES: The meeting will be held on June 30, 1992.

ADDRESSES: The meeting will be held at 9:00 a.m. at the Best Western Domino's Farm Hotel, 3600 Plymouth Rd., Ann Arbor, MI 48105.

FOR FURTHER INFORMATION CONTACT: Ms. Betsy McCabe, Certification Division, U.S. EPA National Vehicle and Fuel Emissions Laboratory, 2565 Plymouth Rd., Ann Arbor, MI 48105. Telephone: (313) 668-4344.

SUPPLEMENTARY INFORMATION: A public workshop was held on March 11, 1992 (57 FR 5448) to solicit information on technical characteristics, emissions, potential regulatory strategies, and general regulatory issues related to nonroad engines under 50 horsepower. As a result of that public workshop, OPEI and EMA have approached EPA and expressed an interest in working cooperatively with EPA as EPA explores the possibility of developing regulations for engines under 50 horsepower. EPA recognizes that continuing involvement by the manufacturing and environmental communities is essential as EPA explores the need for and feasibility of regulatory strategies for nonroad engines. EPA is publishing this notice in order to ensure that other interested parties have the opportunity to attend this and any subsequent meetings if they wish.

Dated: June 16, 1992.

Michael Shapiro,

Acting Assistant Administrator for Air and Radiation.

[FR Doc. 92-14599 Filed 6-19-92; 8:45 am]

BILLING CODE 6560-50-M

[FRL-4145-3]

Science Advisory Board Indoor Air Quality and Total Human Exposure Committee Open Meeting July 21-22, 1992

Pursuant to the Federal Advisory Committee Act Public Law 92-463, notice is hereby given that the Science Advisory Board's (SAB) Indoor Air Quality and Total Human Exposure Committee (IAQTHEC) (hereafter, the Committee) will meet on July 21-22, 1992 in the Main Ballroom of the Holiday Inn, 15th Street and Jefferson Davis Highway, Arlington, VA 22202. The meeting will begin on both days at 9 a.m., and end no later than 5 p.m. on July 22. The meeting is open to the public and seating is on a first-come basis.

Background

The purpose of the meeting is for the Committee to review the U.S. Environmental Protection Agency's (EPA) draft report Respiratory Health Effects of Passive Smoking: Lung Cancer and Other Disorders (EPA/600/6-90/006B). This document was prepared by

the Agency's Human Health Assessment Group, Office of Research and Development (ORD), at the request of the Agency's Indoor Air Division, Office of Air and Radiation (OAR), under the authority of Title IV of Superfund (The Radon Gas and Indoor Air Quality Research Act of 1986) to provide information and guidance on the potential hazards of indoor air pollutants. This report is a revision of an earlier report titled, Health Effects of Passive Smoking: Assessment of Lung Cancer in adults and Respiratory Disorders in Children (EPA/600/6-90/006A), which the SAB reviewed in public session on December 4-5, 1990. As a result of that review, the SAB suggested several areas in which the health risk assessment could be improved, and offered to provide additional advice on a revised document (See the SAB's report issued as a result of that review: *An SAB Report: Review of Draft Environmental Tobacco Smoke Health Effects Document, EPA-SAB-IAQC-91-007, April 1991).* The Agency has now completed its revision of the document and has requested that the SAB review the revised draft.

Charge to the Committee

As part of the tentative Charge to the Committee, the Agency has requested that the SAB answer the following questions (Chapter numbers refer to the revised draft EPA document, EPA/600/6-90/006B):

I—ETS Exposure (Chapter 3)

(1) Do the conclusions on the chemical similarities of ETS and mainstream smoke warrant the toxicological comparison between passive and active smoking made as part of the biological plausibility arguments for lung cancer (Chapter 4) and non-cancer respiratory disorders (Chapter 7)?

(2) Is the extent of ETS exposure in various environments adequately characterized?

(3) Are the methods of assessing ETS exposure and the uncertainties associated with each accurately described?

II—Lung Cancer

A. Hazard Identification (Chapter 4 and 5)

(4) Is the evidence for the lung carcinogenicity of ETS presented adequately?

(5) Does any of the new information alter the SAB conclusion regarding the categorization of ETS as an EPA Group A carcinogen?

B. Population Impact (Chapter 6)

(6) Is the approach used to derive estimates of U.S. female never-smoker lung cancer risk scientifically defensible?

(7) Is the approach used to extrapolate lung cancer risk from female never-smokers to male never-smokers and former smoker of both sexes scientifically defensible?

(8) Are the assumptions used to derive these lung cancer population estimates and the uncertainties involved characterized adequately?

(9) Is the degree of confidence in these estimates as stated appropriately characterized?

III—Noncancer Respiratory Disorders

A. Hazard Identification (Chapter 7; Sections 8.1 and 8.2)

(10) Have the biological plausibility arguments been adequately presented?

(11) Have the most important confounders been properly addressed?

(12) Has the weight of evidence been properly characterized? Are the conclusions scientifically defensible?

(13) Is the evidence with respect to maternal smoking and sudden infant death syndrome properly characterized? Should this evidence be included in this report?

B. Population Impact (Chapter 8)

(14) Is the presented population impact of ETS on lower respiratory infections and asthma in children scientifically defensible?

(15) Are the assumptions, uncertainties, and degree of confidence in the ranges of population impact estimates adequately characterized?

This Charge is subject to change and the Committee may elect to investigate other areas as well.

Availability of Documents and Information

(1) The present EPA draft document (Respiratory Health Effects of Passive Smoking: Lung Cancer and Other Disorders (EPA/600/6-90/006B) will be made available to the interested public and the Committee on or about June 22, 1992. Copies of this draft document are not available from the Science Advisory Board. Single copies may be obtained from the following source(s):

(a) Center for Environmental Research Information (CERI-FRN), U.S. Environmental Protection Agency, 26 W. Martin Luther King Drive, Cincinnati, OH 45268; telephone: (513) 569-7562; FAX: (513) 569-7566. Please provide the document number (EPA/600/6-90/006B), and your name and mailing address. Availability may be limited, however, individuals who requested a copy of the earlier EPA draft will automatically be sent a copy of this revised draft.

(b) National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, VA 22161; telephone (703) 487-4650. Availability date may vary, please check with NTIS. The NTIS ordering number is PB92-182344. (cost $59.00 paper; $19.00 microfiche).

(c) The revised draft document will also be available for inspection at the ORD Public Information Shelf, U.S. EPA Headquarters Library, 401 M Street, SW., Washington, DC 20460; the EPA Regional Libraries; and the Federal Depository Libraries.

(2) The earlier EPA draft document (*Health Effects of Passive Smoking: Assessment of Lung Cancer in Adults and Respiratory Disorders in Children (EPA/600/6-90/006A)*) is available only from the following source: National Technical Information Service (NTIS), 528 Port Royal Road, Springfield, VA 22161; telephone: (703) 487-4650. The NTIS ordering number is PB90-261-652/AS. (cost $35.00 paper; $12.50 microfiche). This document was reviewed earlier by the SAB and is not a subject of the present review.

(3) The Science Advisory Board report: *Review of Draft Environmental Tobacco Smoke Health Effects Document (EPA-SAB-IAQC-91-007) April 1991*, is available in single copies only from: U.S. EPA, Science Advisory Board (A-101), Office of the Staff Director, ATTN: Ms. Lori Gross, 401 M Street, SW., Washington, DC 20460 (street and mailing address are the same); telephone: (202) 260-4126 and FAX (202) 260-9232. Please provide the report title, SAB report number and your name and mailing address to obtain a copy.

(4) For further information concerning the meeting including a draft agenda, or to reserve speaking time on the agenda (see below), please contact Mr. Robert Flaak, Assistant Staff Director, (mailing address: Science Advisory Board Staff Office (A-101F), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460; street address: Suite 508, 499 South Capitol Street, Washington, DC 20460), telephone: (202) 260-6552 and FAX: (202) 260-7118. Copies of the EPA Draft Documents and the SAB Report are not Available From the SAB Staff Office.

Procedures for Providing Comments

The Agency is not soliciting public comment on its draft document. However, as a procedural matter, the Science Advisory Board normally accepts either written or oral comment

on issues that are under its review. To be most useful, the comments should be focused on the particular issues before the Committee, as summarized in the Charge to the Committee above. Comments submitted to the SAB will be provided to the Committee for consideration during the review process. The SAB does not acknowledge receipt of nor does it provide a response to any public comments received.

(1) *Oral Comment:* Oral comment is taken during a specified period during the public meeting (this will be announced in the agenda). Members of the public who wish to make a brief oral presentation to the Committee must contact Mr. Flaak in writing (via letter or FAX) no later than 4 p.m. (eastern time) on July 14, 1992 in order to reserve time on the Agenda. The request must include the name of the person making the presentation, organizational affiliation represented, a summary of the issue to be discussed (cf., the Charge to the Committee above), and identification of any audio-visual requirements. Phone calls are welcome to clarify the process, however, a reservation to speak must still be made in writing. The SAB expects that public statements presented at its meetings will not be repetitive of previously submitted oral or written statements. In general, each individual or group making an oral presentation will be limited to a total time of five minutes. A copy of the text and copies of any visuals used must be provided to Mr. Flaak at the time of the presentation, and will be made part of the public record.

(2) *Written Comment:* Written statements of any length may be provided to the Committee up until the meeting. Copies of these statements received in the SAB Staff office by noon (eastern time) on July 6, 1992 will be mailed to the Committee before the meeting; copies received after that date will be provided to the Committee at the meeting. Members of the public who submit written comments either before or at the meeting are requested to provide at least 50 copies of any such documents to Mr. Flaak to allow for adequate distribution of their position or information. Copies of all comments provided to the SAB as a result of this review will be made part of the public record and will also be provided to the Agency for their information.

Dated: June 12, 1992.

Donald Barnes,

Staff Director, Science Advisory Board.

[FR Doc. 92-14463 Filed 6-19-92; 8:45 am]

BILLING CODE 6560-50-M

[OPPTS-51797; FRL 4075-3]

Certain Chemicals; Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in the final rule published in the **Federal Register** of May 13, 1983 (48 FR 21722). This notice announces receipt of 62 such PMNs and provides a summary of each.

DATES: Close of review periods:

P 92-876, August 9, 1992.

P 92-919, 92-920, August 15, 1992.

P 92-921, 92-922, 92-923, 92-924, 92-925, 92-926, 92-977, 92-978, August 16, 1992.

P 92-979, 92-980, 92-981, 92-982, 92-983, 92-984, 92-985, 92-986, 92-987, August 17, 1992.

P 92-988, 92-989, August 18, 1992.

P 92-990, 92-991, 92-992, 92-993, 92-994, 92-995, 92-996, 92-997, August 19, 1992.

P 92-998, 92-999, August 23, 1992.

P 92-1000, 92-1001, 92-1002, 92-1003, 92-1004, August 24, 1992.

P 92-1005, 92-1006, 92-1007, 92-1008, August 26, 1992.

P 92-1009, 92-1010, 92-1011, 92-1012, 92-1013, 92-1014, 92-1015, 92-1016, 92-1017, August 29, 1992.

P 92-1018, 92-1019, 92-1020, 92-1021, 92-1022, 92-1023, 92-1026, 92-1027, 92-1028, 92-1029, 92-1030, 92-1031, August 30, 1992.

Written comments by:

P 92-876, July 10, 1992.

P 92-919, 92-920, July 16, 1992.

P 92-921, 92-922, 92-923, 92-924, 92-925, 92-926, 92-977, 92-978, July 17, 1992.

P 92-979, 92-980, 92-981, 92-982, 92-983, 92-984, 92-985, 92-986, 92-987, July 18, 1992.

P 92-988, 92-989, July 19, 1992.

P 92-990, 92-991, 92-992, 92-993, 92-994, 92-995, 92-996, 92-997, July 20, 1992.

P 92-998, 92-999, July 24, 1992.

P 92-1000, 92-1001, 92-1002, 92-1003, 92-1004, July 25, 1992.

P 92-1005, 92-1006, 92-1007, 92-1008, July 27, 1992.

P 92-1009, 92-1010, 92-1011, 92-1012, 92-1013, 92-1014, 92-1015, 92-1016, 92-1017, July 30, 1992.

P 92-1018, 92-1019, 92-1020, 92-1021, 92-1022, 92-1023, 92-1026, 92-1027, 92-1028, 92-1029, 92-1030, 92-1031, July 31, 1992.

ADDRESSES: Written comments, identified by the document control number "(OPPTS-51797)" and the specific PMN number should be sent to: Document Processing Center (TS-790), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 401 M St., SW., Rm. 201ET, Washington, DC, 20460, (202) 260-3532.

FOR FURTHER INFORMATION CONTACT: David Kling, Acting Director, Environmental Assistance Division (TS-799), Office of Pollution Prevention and Toxics, Environmental Protection Agency, Rm. E-545, 401 M St., SW., Washington, DC 20460 (202) 554-1404, TDD (202) 554-0551.

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the nonconfidential version of the submission provided by the manufacturer on the PMNs received by EPA. The complete nonconfidential document is available in the TSCA Public Docket Office NE -G004 at the above address between 8 a.m. and noon and 1 p.m. and 4 p.m., Monday through Friday, excluding legal holidays.

P 92-876

Manufacturer. Confidential.

Chemical. (G) Olefin maleic polymer.

Use/Production. (G) Open, nondispersive. Prod. range: Confidential.

P 92-919

Importer. Fabricolor Inc.

Chemical. (S) 2,7-Naphthalene disulfonic acid, 5-hydroxy-6-((4-nitrophenyl)azo)-5-((2,6-dihydroxy-3-)((4-nitrophenyl)azo-5-((4-sulfonaphthalenyl)azo)phenyl)azo-,tr.sodium salt.

Use/Import. (S) Dyeing of leather. Import range: Confidential.

P 92-920

Manufacturer. Noramco, Inc.

Chemical. (G) Substituted phenyl azo phenyl dye.

Use/Production. (S) Intermediate. Prod. range: Confidential.

P 92-921

Manufacturer. Confidential.

Chemical. (G) Polymer salt of alkyl propenoates, substituted alkyl proprnoates, ethenyl benzene and ethylene carboxilic acid.

Use/Production. (S) Coatings. Prod. range: 2,500,000-5,000,000 kg/yr.

P 92-922

Manufacturer. Confidential.

Chemical. (G) Polymer salt of alkyl propenoates, substituted alkyl propenoates, ethenyl benzene and ethylene carboxilic acid.

Use/Production. (S) Coatings. Prod. range: 2,500,000–5,000,000 kg/yr.

P 92-923

Manufacturer. Confidential.

Chemical. (G) Polymer of salt alkyl propenoates, substituted alkyl propenoates, ethenyl benzene and ethylene carboxilic acid.

Use/Production. (S) Coatings. Prod. range: 2,500,000–5,000,000 kg/yr.

P 92-924

Manufacturer. Confidential.

Chemical. (G) Polymer salt of alkyl propenoates, substituted alkyl propenoates, ethenyl benzene and ethylene carboxilic acid.

Use/Production. (S) Coatings. Prod. range: 2,500,000–5,000,000 kg/yr.

P 92-925

Manufacturer. Confidential.

Chemical. (G) Polymer salt of alkyl propenoates, substituted alkyl propenoates, ethenyl benzene and ethylene carboxilic acid.

Use/Production. (S) Coatings. Prod. range: 2,500,000–5,000,000 kg/yr.

P 92-926

Manufacturer. Confidential.

Chemical. (G) Polymer salt of alkyl propenoates, substituted alkyl propenoates, ethenyl benzene and ethylene carboxilic acid.

Use/Production. (S) Coatings. Prod. range: 2,500,000–5,000,000 kg/yr.

P 92-977

Manufacturer. Confidential.

Chemical. (G) Polymer salt of alkyl propenoates, substituted alkyl propenoates, ethenyl benzene and ethylene carboxilic acid.

Use/Production. (S) Coatings. Prod. range: 2,500,000–5,000,000 kg/yr.

P 92-978

Importer. Confidential.

Chemical. (G) 2-Benzotriazole.

Use/Import. (G) Open, nondispersive use in fibers. Import range: Confidential.

P 92-979

Manufacturer. Confidential.

Chemical. (G) Blocked aromatic polyisocyanate.

Use/Production. (S) Crosslinking agent for epoxy type coatings. Prod. range: 79,375–793,750 kg/yr.

P 92-980

Manufacturer. Minnesota Mining Manufacturing Company.

Chemical. (G) Acrylated urethane.

Use/Production. (G) Intermediate. Prod. range: Confidential.

P 92-981

Manufacturer. Confidential.

Chemical. (G) Mixed esters of saturated carboxylic acids, diacids, lactones, alchols, polyols.

Use/Production. (G) Gear lubricant. Prod. range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 > 2,300 mg/kg species (rat). Eye irritation: none species (rabbit). Skin irritation: slight species (rabbit).

P 92-982

Manufacturer. Confidential.

Chemical. (G) Mixed esters of saturated carboxylic acids, diacids, lactones, alcohols, and polyols.

Use/Production. (G) Gear lubricant. Prod. range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 > 2,300 mg/kg species (rat). Eye irritation: none species (rabbit). Skin irritation: slight species (rabbit).

P 92-983

Manufacturer. Confidential.

Chemical. (G) Mixed esters of saturated carboxylic acids, diacids, lactones, alcohols, and polyols.

Use/Production. (G) Gear lubricant. Prod. range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 > 2,300 mg/kg species (rat). Eye irritation: none species (rabbit). Skin irritation: slight species (rabbit).

P 92-984

Manufacturer. Confidential.

Chemical. (G) Mixes esters of saturated carboxylic acids, diacids, lactones, alcohols, and polyols.

Use/Production. (G) Gear lubricant. Prod. range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 > 2,300 mg/kg species (rat). Eye irritation: none species (rabbit). Skin irritation: slight species (rabbit).

P 92-985

Manufacturer. Confidential.

Chemical. (G) Mixed esters of saturated carboxylic acids, diacids, lactones, alcohols, and polyols.

Use/Production. (G) Gear lubricant. Prod. range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 > 2,300 mg/kg species (rat). Eye irritation: none species (rabbit). Skin irritation: slight species (rabbit).

P 92-986

Importer. Confidential.

Chemical. (S) 2-Propenoic acid, 2-ethylhexyl ester, polymer with ethenylbenzene and 2-methyl-2-((-oxo-2-propenyl)amino)-1-propanesulfonic acid, 2,2'-azo-bis(2-methylbutanenitrile)-initiated.

Use/Import. (G) Ingredient. Import range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 > 5 mg/kg species (rat). Eye irritation: moderate species (rabbit). Skin irritation: negligible species (rabbit). Mutagenicity: negative.

P 92-987

Importer. Confidential.

Chemical. (G) Poly-B-fluoroalkyl acrylate and alkyl acrylate.

Use/Import. (S) Water and oil repellent finish for clothes. Import range: 1,000–5,000 kg/yr.

Toxicity Data. Mutagenicity: negative.

P 92-988

Manufacturer. Dow Corning Corporation.

Chemical. (G) Alkylsichlorosilane.

Use/Production. (S) Chemical intermediate. Prod. range: Confidential.

P 92-989

Manufacturer. Dow Corning Corporation.

Chemical. (G) Dialkyldichlorosilane.

Use/Production. (S) Chemical intermediate. Prod. range: Confidential.

P 92-990

Manufacturer. Essex Group, Inc.

Chemical. (G) Cresol blocked MDI-triol prepolymer.

Use/Production. (S) Component of magnet wire enamel. Prod. range: Confidential.

P 92-991

Manufacturer. Hoechst Celanese Corporation.

Chemical. (G) Trisubstituted naphthalene sulfonic acid.

Use/Production. (S) Reactive dye of powder for textile. Prod. range: 2,500–10,000 kg/yr.

P 92-992

Manufacturer. Hoechst Celanese Corporation.

Chemical. (G) Trisubstituted naphthalene sulfonic acid.

Use/Production. (S) Reactive dye of powder for textile. Prod. range: 2,500–10,000 kg/yr.

P 92-993

Manufacturer. Confidential.

Chemical. (S) (Chloromethyl)ethenylbenzene; 2-methyl-2-propenic acid 1,2-ethanedily ester; *N,N*-dimethylmethanamine.

Use/Production. (G) Contained use in an article. Prod. range: 10,000 kg/yr.

Toxicity Data. Acute oral toxicity: LD50 > 3,200 mg/kg. Acute dermal

toxicity: LD50 > 1.0 mg/kg species (guinea pig). Skin sensitization: negative species (guinea pig).

P 92-994

Manufacturer. Confidential.
Chemical. (G) Methylenediphenyl diisocyanate polyester prepolymer.
Use/Production. (S) Adhesive. Prod. range: Confidential.

P 92-995

Manufacturer. The Dow Chemical Company.
Chemical. (G) Proprietary carboxylated acrylate polymer.
Use/Production. (G) Fiber treatment. Prod. range: Confidential.

P 92-996

Manufacturer. H.B. Fuller Company.
Chemical. (G) Styrenated acrylic ester multi-polymer.
Use/Production. (G) Binder. Prod. range: Confidential.

P 92-997

Manufacturer. The Dow Chemical Company.
Chemical. (G) Styrenated acrylic ester multi-polymer.
Use/Production. (G) Binder. Prod. range: Confidential.

P 92-998

Importer. Confidential.
Chemical. (G) Substituted aromatic diazacyanate.
Use/Import. (G) Open, nondispersive. Import range: Confidential.
Toxicity Data. Acute oral toxicity: LD50 406 mg/kg species (rat). Acute dermal toxicity: LD50 > 2,000 mg/kg species (rabbit). Eye irritation: strong species (rabbit). Static acute toxicity: time LC50 19.2 mg/l species (daphnia magna). Skin sensitization: positive species (guinea pig).

P 92-999

Manufacturer. Confidential.
Chemical. (S) Formaldehyde, polymer with (1,1'-biphenyl)-4-ol and phenol.
Use/Production. (S) Binder. Prod. range: 50,000–200,000 kg/yr.

P 92-1000

Manufacturer. Confidential.
Chemical. (G) Acrylic terpolymer.
Use/Production. (G) Thickener for aqueous systems. Prod. range: Confidential.

P 92-1001

Manufacturer. Confidential.
Chemical. (G) Acrylic tetrapolymer.
Use/Production. (G) Thickener for aqueous systems. Prod. range: Confidential.

P 92-1002

Manufacturer. Confidential.
Chemical. (G) Reaction product of polyisocyanate and polyols.
Use/Production. (G) Reactive elastomer. Prod. range: Confidential.

P 92-1003

Importer. Huls America Inc.
Chemical. (S) Neonanoic acid ethenylester.
Use/Import. (S) Reactive cornaromer. Import range: Confidential.
Toxicity Data. Acute oral toxicity: LD50 > 10,000 mg/kg species (rat).

P 92-1004

Manufacturer. Confidential.
Chemical. (G) Amine phosphate.
Use/Production. (G) Lubricant additive. Prod. range: Confidential.
Toxicity Data. Acute oral toxicity: LD50 > 5,000 mg/kg species (rat). Eye irritation: moderate species (rabbit). Skin irritation: strong species (rabbit). Mutagenicity: negative. Skin sensitization: positive species (guinea pig).

P 92-1005

Manufacturer. Henkel Corporation.
Chemical. (G) Polyester.
Use/Production. (S) Plasticizer for polyvinyl adhesive resin. Prod. range: 80,000–100,000 kg/yr.
Toxicity Data. Acute oral toxicity: LD50 > 5 g/kg species (rat). Eye irritation: none species (rabbit). Skin irritation: negligible species (rabbit).

P 92-1006

Manufacturer. Confidential.
Chemical. (G) Acrylate functional polyurethane resin.
Use/Production. (G) Industrial coating. Prod. range: Confidential.

P 92-1007

Manufacturer. Pierce & Stevens Corporation.
Chemical. (G) Polyester polyurethane.
Use/Production. (S) Water based coating. Prod. range: Confidential.

P 92-1008

Manufacturer. Boulder Scientific Company.
Chemical. (S) Sodium titanate; mono sodium titanate; sodium titanate hydroxide oxide.
Use/Production. (S) Adrontium 90 decontamination. Prod. range: 34,000–70,000 kg/yr.

P 92-1009

Importer. Ciba-Geigy Corporation.
Chemical. (G) Formazon dye.
Use/Import. (G) Textile dye. Import range: Confidential.
Toxicity Data. Acute oral toxicity: LD50 2,620 mg/kg species (rat). Acute dermal toxicity: LD50 > 2,000 mg/kg species (rabbit). Eye irritation: none species (rabbit). Mutagenicity: negative. Static acute toxicity: time LC50 96h17.8 mg/l species (zebra fish). Skin irritation: negligible species (rabbit). Skin sensitization: negative species (guinea pig).

P 92-1010

Manufacturer. Eastman Kodak Comnpany.
Chemical. (G) Substituted alkoxycyclohexadiene.
Use/Production. (G) Chemical intermediate. Prod. range: 1,200–2,400 kg/yr.
Toxicity Data. Acute oral toxicity: LD50 > 5,000 mg/kg species (rat). Eye irritation: none species (rabbit). Skin irritation: slight species (rabbit). Skin sensitization: negative species (guinea pig).

P 92-1011

Manufacturer. Eastman Kodak Company.
Chemical. (G) Aminophenyl substituted pyrazolone.
Use/Production. (G) Chemical intermediate. Prod. range: 1,000–2,500 kg/yr.
Toxicity Data. Acute oral toxicity: LD50 > 2,000 mg/kg species (rat). Acute dermal toxicity: LD50 > 2,000 mg/kg species (rabbit). Eye irritation: none species (rabbit). Skin irritation: negligible species (rabbit). Skin sensitization: negative species (guinea pig).

P 92-1012

Manufacturer. Eastman Kodak Company.
Chemical. (G) Substituted alkoxybenzene.
Use/Production. (G) Centained use in an asrticle. Prod. range: 1,000–2,000 kg/yr.
Toxicity Data. Acute oral toxicity: LD50 > 5,000 mg/kg species (rat). Acute dermal toxicity: LD50 > 2,000 mg/kg species (rabbit). Eye irritation: none species (rabbit). Skin irritation: slight species (rabbit). Skin sensitization: negative species (guinea pig).

P 92-1013

Manufacturer. Eastman Kodak Company.
Chemical. (G) Aminophenyl sustituted pyrazolone.
Use/Production. (G) Nondispersive use. Prod. range: 1,000–2,500 kg/yr.
Toxicity Data. Eye irritation: slight species (rabbit). Skin irritation: slight species (rabbit). Skin sensitization: negative species (guinea pig).

P 92-1014

Manufacturer. Confidential.

Chemical. (S) Fatty acids, C_{16-18} and C_{18} unsaturated, branched and linear, potassium salts.

Use/Production. (G) Chemical intermediate. Prod. range: Confidential.

P 92-1015

Manufacturer. Confidential.

Chemical. (S) Fatty acids, C_{16-18} and C_{18} unsaturated, branched and linear, potassium salts.

Use/Production. (G) Chemical intermediate. Prod. range: Confidential.

P 92-1016

Manufacturer. Confidential.

Chemical. (S) Fatty acids, C_{16-18} and C_{18} unsaturated, branched and linear, potassium salts.

Use/Production. (G) Chemical intermediate. Prod. range: Confidential.

P 92-1017

Manufacturer. Confidential.

Chemical. (S) Fatty acids, C_{16-18} and C_{18} unsaturated, branched and linear, potassium salts.

Use/Production. (G) Chemical intermediate. Prod. range: Confidential.

P 92-1018

Manufacturer. Reichhold Chemicals, Inc.

Chemical. (G) Modified styrene-butadiene-acrylonitrile polymer.

Use/Production. (G) Latex for moldable application. Prod. range: Confidential.

P 92-1019

Manufacturer. Confidential.

Chemical. (G) Amine functional epoxy resin.

Use/Production. (S) Coatings. Prod. range: 100,000–306,000 kg/yr.

P 92-1020

Manufacturer. Confidential.

Chemical. (G) Amine functional epoxy resin.

Use/Production. (S) Coatings. Prod. range: 100,000–306,000 kg/yr.

P 92-1021

Manufacturer. Confidential.

Chemical. (G) Amine functional epoxy resin.

Use/Production. (S) Coatings. Prod. range: 100,000–306,000 kg/yr.

P 92-1022

Manufacturer. Confidential.

Chemical. (G) Modified acrylate polymer.

Use/Production. (G) Coating ingredient. Prod. range: Confidential.

P 92-1023

Manufacturer. Confidential.

Chemical. (G) Modified acrylate polymer.

Use/Production. (G) Open, nondispersive. Prod. range: Confidential.

P 92-1026

Manufacturer. Confidential.

Chemical. (G) Hydroxy functional acrylic polymer.

Use/Production. (G) Coating component. Prod. range: 500–3,000 kg/yr.

P 92-1027

Manufacturer. Confidential.

Chemical. (G) Hydroxy functional acrylic polymer.

Use/Production. (G) Coating component. Prod. range: 500–3,000 kg/yr.

P 92-1028

Manufacturer. Confidential.

Chemical. (G) Acid functional polyurethane polyester.

Use/Production. (G) Component of dispersively applied coating. Prod. range: 50,000–100,000 kg/yr.

P 92-1029

Manufacturer. Occidental Chemical Corporate.

Chemical. (S) Phenol; para formaldehyde; p-henol; water.

Use/Production. (G) Binder for carbon composites. Prod. range: Confidential.

P 92-1030

Manufacturer. Confidential.

Chemical. (G) Alkyl substituted urea.

Use/Production. (S) Grease thickener. Prod. range: 51,000 kg/yr.

Toxicity Data. Acute oral toxicity: LD50 > 5 g/kg species (rat). Acute dermal toxicity: LD50 2.0 g/kg species (rabbit). Eye irritation: strong species (rabbit). Skin irritation: moderate species (rabbit). Skin sensitization: negative species (guinea pig).

P 92-1031

Manufacturer. Confidential.

Chemical. (G) Polyurethane epoxy resin.

Use/Production. (G) Open, nondispersive. Prod. range: Confidential.

Dated: June 16, 1992.

Steven Newburg-Rinn,

Acting Director, Information Management Division, Office of Pollution Prevention and Toxics.

[FR Doc. 92-14600 Filed 6-19-92; 8:45 am]

BILLING CODE 6560-50-F

FEDERAL COMMUNICATIONS COMMISSION

Public Information Collection Requirement Submitted to Office of Management and Budget for Review

June 16, 1992.

The Federal Communications Commission has submitted the following information collection requirement to OMB for review and clearance under the Paperwork Reduction Act of 1980 (44 U.S.C. 3507).

Copies of this submission may be purchased from the Commission's copy contractor, Downtown Copy Center, 1990 M Street, NW, suite 640, Washington, DC 20036, (202) 452-1422. For further information on this submission contact Judy Boley, Federal Communications Commission, (202) 632-7513. Persons wishing to comment on this information collection should contact Jonas Neihardt, Office of Management and Budget, Room 3235 NEOB, Washington, DC 20503 (202) 395-4814.

OMB Number: None

Title: Application for FM Broadcast Station License

Form Number: FCC Form 302-FM

Action: New collection

Respondents: Non-profit institutions, businesses or other for-profit (including small businesses)

Frequency of Response: On occasion reporting

Estimated Annual Burden: 800 responses; 4 hours average burden per response; 3,200 hours total annual burden

Needs and Uses: Currently, licensees and permittees of AM, FM and TV broadcast stations are required to file FCC Form 302 (OMB Control # 3060-0029) to obtain a new or modified station license and/or to notify the Commission of certain changes in the licensed facilities of these stations. On 11/1/91, the Commission's FM Branch Total Quality Management (TQM) Team issued a Public Notice soliciting comments on the FM licensing process. Approximately 60% of FM license applications contain discrepancies. It was determined that a clear, concise license form and instructions for FM stations would reduce the number of defective applications filed, thereby reducing burden on both the public and the FCC processing staff. The new FCC Form 302-FM was tested on individuals who submitted comments regarding the licensing process and on the FM branch processing staff. Licensees and permittees of FM

broadcast stations are required to file FCC Form 302-FM to obtain a new or modified station license, and/or to notify the Commission of certain changes in the licensed facilities of these stations. The data is used by FCC staff to confirm that the station has been built to terms specified in the outstanding construction permit, and to update FCC station files. Data is then extracted from FCC Form 302-FM for inclusion in the subsequent license to operate the station.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 92-14646 Filed 6-19-92; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

Establishment of FEMA Security Practices Board of Review

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: In accordance with section 9(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. app. 2, FEMA announces the establishment of the FEMA Security Practices Board of Review (Board).

FOR FURTHER INFORMATION CONTACT: William C. Coe, Committee Management Specialist, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646-2669.

SUPPLEMENTARY INFORMATION: The Board will conduct a complete review of FEMA's personnel security program and FEMA's compliance with Executive Orders 10450 and 12356. It will make recommendations to the Director, FEMA, for development, changes, revocations of FEMA procedures and any other actions deemed necessary in order to ensure compliance with those Executive Orders and to ensure that Constitutional due process concerns for placement in or removal from National Security positions meet all current and appropriate legal and policy concerns of the Director.

The Board will report solely to the Director of FEMA. The Board is established pursuant Executive Orders 10450, 12148, 12356, and 12656; its operations are subject to the provisions of the Federal Advisory Committee Act, 5 U.S.C. App. 2.

Due to the complex and sensitive nature of the issues with which the Board will be concerned, a range of expertise and experience is required to examine current operations and to make appropriate recommendations. The expertise must be drawn from both inside and outside government. No other type of panel or existing advisory committee adequately provides the needed in-depth review. Therefore, the Agency concludes that the Board is necessary and in the public interest.

In order to attain fairly balanced membership the Board is comprised of qualified people active in the areas of personnel security, law, federal management, and national security, and has drawn their expertise from both inside and outside the Federal Government.

The Board will submit its recommendations to the Director of FEMA by September 11, 1992, and will terminate on December 31, 1992.

Dated: June 17, 1992.

Wallace E. Stickney,

Director.

[FR Doc. 92-14723 Filed 6-19-92; 8:45 am]

BILLING CODE 67-18-01-M

Meeting; FEMA Security Practices Board of Review

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice of meeting.

SUMMARY: In accordance with section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. 2, FEMA announces the following committee meeting, portions of which may be closed:

Name: FEMA Security Practices Board of Review.

Dates of Meeting: Friday, June 26, 1992.

Place: Federal Emergency Management Agency, John W. Macy, Jr. Conference Room, room 829, 500 C Street, SW., Washington, DC 20472.

Times: June 26, 1992, 9 a.m. to 12 p.m.

Proposed Agenda: General orientation and update on programs and issues concerning FEMA security matters; review of the Board's charter; discussion of Board's organization and how it will perform its task.

SUPPLEMENTARY INFORMATION: Members will be provided with an overall orientation and update on FEMA security matters. FEMA senior executives will discuss the on-going programs which include FEMA's personnel security program and FEMA's compliance with Executive Orders 10450 and 12356. Advice will be solicited on the future direction of this program within FEMA.

The Review Board must complete its review and report by September 11, 1992. In view of this time limit and owing to the complex, sensitive, and urgent nature of FEMA security matters, less than 15 days notice of the meeting is given, under 41 CFR 101-6.1015(b)(2).

The meeting will be open to the public with approximately 10 seats available on a first-come, first-served basis. Members of the general public who plan to attend the meeting should contact the Office of the Director, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646-3923 on or before June 24, 1992.

The Director has determined that portions of the Board meeting may have to be closed to the public in accordance with Section 10(d) of the Federal Advisory Committee Act, 5 U.S.C. app. 2, and section 3(a) of the Administrative Procedure Act, 5 U.S.C. 552b(c), because discussions may (1) relate solely to the internal personnel rules and practices of the Agency, (2) disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of privacy, and (3) involve the discussion of information, the premature disclosure of which would be likely to significantly frustrate implementation of a proposed agency action. Information may be disclosed that is predecisional, and to allow the meeting to be open would frustrate frank and open discussion. In addition, some of the discussion may relate solely to the internal rules and practices of an agency.

Minutes of the meeting (minus those portions of the meeting which may be closed to the public) will be prepared and will be available for public viewing in the Office of the Director, Federal Emergency Management Agency, room 828, 500 C Street, SW., Washington, DC 20472. Copies of the minutes will be available upon request 30 days after the meeting.

Dated: June 17, 1992.

Wallace E. Stickney,

Director.

[FR Doc. 92-14722 Filed 6-19-92; 8:45 am]

BILLING CODE 6718-01-M

GENERAL ACCOUNTING OFFICE

Federal Accounting Standards Advisory Board

AGENCY: General Accounting Office.

ACTION: Notice of meeting.

SUMMARY: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. No. 92-463), as amended, notice is hereby given that a two-day meeting of the Federal Accounting Standards Advisory Board will be held on

Thursday, July 9 and Friday, July 10, 1992 from 9 a.m. to 4 p.m. in room 7313 of the General Accounting Office, 441 G St., NW., Washington, DC.

The agenda for the meeting will consist of a review of the minutes of the May 28–29 meeting, a review of the Roundtable proceedings of June 30, a discussion of Uses and Objectives of Federal Accounting, a discussion of Liabilities and Other Commitments, and a discussion of inventory and related standards. We advise that other items may be added to the agenda; interested parties should contact the Staff Director for more specific information and to confirm the date of the meeting.

Any interested person may attend the meeting as an observer. Board discussions and reviews are open to the public.

FOR FURTHER INFORMATION CONTACT: Ronald S. Young, Staff Director, 401 F St., NW., room 302, Washington, DC 20001, or call (202) 504–3336.

Authority: Federal Advisory Committee Act. Pub. L. No. 92–463, section 10(a)(2), 86 Stat. 770, 774 (1972) (current version at 5 U.S.C. app. section 10(a)(2) (1988); 41 CFR 101–6.1015 (1990).

Dated: June 17, 1992.

Jimmie Brown,

Deputy Director.

[FR Doc. 92–14638 Filed 6–19–92; 8:45 am]

BILLING CODE 1610-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Toxic Substances and Disease Registry

[ATSDR-53]

Development of Community Assistance Panels

AGENCY: Agency for Toxic Substances and Disease Registry (ATSDR), Public Health Service (PHS), Department of Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: This notice announces the development and formation of Community Assistance Panels at selected Superfund sites. The purpose of these panels is to enhance effective communication of environmental health concerns to ATSDR by the public, and to establish an avenue for ATSDR to inform the community of site-specific scientific findings as they become available. In addition they provide a means for community participation in ATSDR activities. The Community Assistance Panel process is subject to change, based on experience gained during implementation.

FOR FURTHER INFORMATION CONTACT: Michael Greenwell, Agency for Toxic Substances and Disease Registry, 1600 Clifton Road, N.E., Mailstop E–28, Atlanta, Georgia 30333, telephone 404–639–0727.

SUPPLEMENTARY INFORMATION: The Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), as amended, authorizes ATSDR to address the human health effects of exposure to hazardous substances in the environment. This mandate requires ATSDR to conduct various site-specific scientific evaluations within communities nationwide. These communities can provide ATSDR with valuable information about health and environmental factors, and ATSDR can inform the community of scientific knowledge that becomes available.

Information from the community regarding health concerns, health outcomes, and environmental factors is an important component of ATSDR site evaluations. An important characteristic of public health management concerning these sites is communicating risk and health and scientific information to the community. Community involvement activities include public availability sessions, public meetings, small group briefings, and other formal and informal communication. Community Assistance Panels may be established as an additional means to enhance communication avenues and foster information exchange and understanding.

The purposes of a Community Assistance Panel are to:

1. Facilitate effective communication between ATSDR, local officials, and the community.

2. Convey community health and environmental concerns to ATSDR from the community regarding site-specific activities being conducted or contemplated.

3. Ensure that ATSDR documents accurately reflect community knowledge and concern about the site under investigation.

4. Provide an opportunity for community involvement at each phase of a scientific evaluation or study with ATSDR seeking community understanding regarding scientific findings through active communication.

5. Encourage community participation in ATSDR site-specific public health activities.

A community Assistance Panel will be composed of individuals, generally 12 to 15, from the concerned community. Serving on the Community Assistance Panel will be a voluntary, unpaid activity.

Preference will be given to nominees who:

1. Are at least 18 years of age.

2. Reflect area residents' various viewpoints as ATSDR understands them.

3. Have understanding or knowledge of the site, the contaminants of concern, and/or the community health concerns.

4. Are permanent residents of the affected area.

The factors that will influence ATSDR to establish a Community Assistance Panel at a particular site, are the degree of community interest; whether there are varying viewpoints regarding the health issues; and a willingness on the part of the public to actively participate in the process. Community Assistance Panels may not be appropriate for all communities; ATSDR will make that determination on a site-specific basis.

Once it has been determined that a Community Assistance Panel will be established:

1. Written nominations will be requested from the concerned community using various methods of notification. Media releases, mass mailings, distribution of fliers, and communication with community groups are the most common means.

2. ATSDR will accept nominations for 30 days from the date of the announcement.

3. ATSDR will respond in writing to all applicants within approximately 30 days of the last accepted nomination form.

4. ATSDR will make all efforts to create a panel that reflects the community's interests regarding health concerns, varied viewpoints, general knowledge of the site, and demographics.

ATSDR acknowledges that a degree of subjectivity will enter into the selection process. All Community Assistance Panel meetings will be advertised in the media and open to the general public. All attendees will be given the opportunity to comment. Minutes will be completed for each meeting and maintained in at least one local repository for review.

Other Requirements

Data collection initiated by this announcement has been approved by the Office of Management and Budget under number 0923–0007, "Nominations for Community Assistance Panels," April 1995.

Dated: June 15, 1992.

William L. Roper,

Administrator, Agency for Toxic Substances and Disease Registry.

[FR Doc. 92-14574 Filed 6-19-92; 8:45 am]

BILLING CODE 4160-70-M

National Institutes of Health

National Cancer Institute; Meeting (Cancer Clinical Investigation Review Committee)

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the Cancer Clinical Investigation Review Committee, National Cancer Institute, National Institutes of Health, July 1-2 1992, Holiday Inn Chevy Chase, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.

This meeting will be open to the public on July 1 from 11 am to 11:30 am to discuss administrative details. 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 922-463, the meeting will be closed to the public on July 1 from 11:30 am to recess and on July 2 from 8 am 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.

Ms. Carole Frank, 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 meeting and a roster of committee members upon request.

Dr. Manuel Torres-Anjel, Scientific Review Administrator, Cancer Clinical Investigation Review Committee, 5333 Westbard Avenue, room 834, Bethesda, Maryland 20816, (301-496-7481), 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: June 9, 1992.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 92-14520 Filed 6-19-92; 8:45 am]

BILLING CODE 4140-01-M

National Heart, Lung, and Blood Institute; Meeting

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the following Heart, Lung, and Blood Special Emphasis Panel.

This meeting will be open to the public to discuss administrative details relating to Special Emphasis Panel (SEP) business for approximately one half hour at the beginning of the first session of the meeting. Attendance by the public will be limited to space available. This meeting will be closed thereafter in accordance with the provisions set forth in section 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 contract proposals. These contracts and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

The Office of Committee Management, National Heart, Lung, and Blood Institute, Westwood Building, room 7A15, National Institutes of Health, Bethesda, Maryland 20892, telephone 301-496-7548, will furnish meeting information upon request. Since it is necessary to schedule meetings well in advance, it is suggested that anyone planning to attend the meeting contact the Scientific Review Administrator to confirm the exact date, time, and location.

Name of Panel: NHLBI SEP on RFP for the Atherosclerosis Risk in Community Studies (ARIC)—MRI Reading Center

Scientific Review Administrator: Dr. Lynn Amende, Telephone 301-496-8818.

Dates of Meeting: July 7, 1992.

Place of Meeting: Guest Quarters, BWI Airport, Baltimore, Maryland.

Time of Meeting: 1 p.m.

(Catalog of Federal Domestic Assistance Program Nos: 93.837, Heart and Vascular Diseases Research; 93.8383, Lung Diseases Research; and 93.839, Blood Diseases and Resources Research, National Institutes of Health.)

Dated: June 9, 1992.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 92-14521 Filed 6-19-92; 8:45 am]

BILLING CODE 4140-01-M

Social Security Administration

[Social Security Ruling SSR 92-6c]

Disability Insurance Benefits—Reduction Due to Receipt of Lump Sum Workers' Compensation Payment—New Hampshire

AGENCY: Social Secuity Administration, HHS.

ACTION: Notice of Social Secuity ruling.

SUMMARY: In accordance with 20 CFR 422.406(b)(1), the Commissioner of Social Security gives notice of Social Security ruling 92-6c. This Ruling is based on a decision by the U.S. Court of Appeals for the First Circuit in *Davidson v. Sullivan*, which reversed the U.S. district court decision. The First Circuit's decision upholds the Secretary's policy that workers' compensation payments for loss of bodily function, rather than wage loss, can be used to offset Social Security disability insurance benefits.

EFFECTIVE DATE: June 22, 1992.

FOR FURTHER INFORMATION CONTACT: Joanne K. Castello, Offfice of Regulations, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235, (410) 965-1711.

SUPPLEMENTARY INFORMATION: Although we are not required to do so pursuant to 5 U.S.C. 552(a)(1) and (a)(2), we are publishing this Social Security ruling in accordance with 20 CFR 422.406(b)(1).

Social Security Rulings make available to the public precedential decisions relating to the Federal old-age, survivors, disability, supplemental security income, and black lung benefits programs. Social Security Rulings may be based on case decisions made at all administrative levels of adjudication, Federal court decisions, Commissioner's decisions, opinions of the Office of the General Counsel, and other policy interpretations of the law and regulations.

Although Social Security Rulings do not have the force and effect of the law or regulations, they are binding on all components of the Social Security Administration, in accordance with 20 CFR 422.406(b)(1), and are to be relied upon as precedents in adjudicating other cases.

If this Social Security Ruling is later superseded, modified, or rescinded, we will publish a notice in the **Federal Register** to that effect.

(Catalog of Federal Domestic Assistance Programs Nos. 93.802 Social Security—Disability Insurance; 93.803 Social Security—Retirement Insurance; 93.805 Social Security—Survivor's Insurance; 93.806

Special Benefits for Disabled Coal Miners; 93.807 Supplemental Security Income]

Dated: May 28, 1992.

Gwendolyn S. King,

Commissioner of Social Security.

Sections 223 and 224 of the Social Security Act (42 U.S.C. 423 and 424a) Disability Insurance Benefits—Reduction Due to Receipt of Lump Sum Workers' Compensation Payment—New Hampshire

20 CFR 404.408

Davidson v. *Sullivan*, 942 F.2d 90 (1st Cir. 1991)

The claimant applied for and was found entitiled to Social Security disability benefits. However, these benefits were offset because he also received New Hampshire workers' compensation payments, including a permanent impairment lump-sum award. After unsuccessfully appealing his case through administrative channels, the claimant appealed to the district court claiming that the portion of his lump-sum settlement representing compensation for permanent impairment was not subject to offset. The district court held that permanent impairment payments paid under the New Hampshire workers' compenation law were to compensate an individual for loss of bodily function, not loss of wages, and, thus, cannot be used to offset Social Security disability benefits.

Section 224 of the Social Security Act provides for an offset of Social Security disability benefits if an individual is also entitled to workers' compensation benefits paid because of the individual's total or partial disability.

The Secretary appealed to the U.S. Court of Appeals for the First Circuit. This court, agreeing with the Secretary, held that, although permanent impairment awards may be paid regardless of any actual loss of wages, the awards were never intended to be a departure from, or an exception to, the wage-loss principle. Permanent impairment benefits under New Hampshire workers' compensation law are for compensable disability under a State workers' compensation law and, therefore, are subject to offset against Social Security disability benefits. In view of the foregoing, the district court decision is reversed.

Bownes, Senior Circuit Judge:

The Secretary of Health and Human Services ("the Secretary") appeals the decision of the district court reversing the Social Security Administration's ("SSA") reduction of the plaintiff's social security disability benefits pursuant to 42 U.S.C. 424a, the "offset" provision. Specifically, the Secretary challenges the court's exclusion of the plaintiff's permanent impairment award under N.H.Rev.Stat.Ann. ("RSA") 281:26 from the offsettable amount. For the reasons that follow, we reverse.

I. Background

In May 1985 plaintiff Albert E. Davidson was awarded weekly worker's compensation benefits pursuant to RSA 281:23 in the amount of $208 per week for a work-related injury.[1] One year later the plaintiff settled his worker's compensation case for a lump sum of $17,000. According to the settlement breakdown the total amount represented $4,368 ($208 per week for twenty-one weeks) for lost wages under RSA 281:23; $1,000 for future medical bills; and $11,632 for permanent partial impairment under RSA 281:26.

In September 1987 plaintiff was determined to be eligible for retroactive disability insurance benefits under the Social Security Act, 42 U.S.C. 423 ("the Act"). When SSA learned of the plaintiff's lump sum worker's compensation award, it informed him that, pursuant to 42 U.S.C. 424a.[2] that award would be offset against his disability benefits, deducted at a weekly rate of $208. Plaintiff challenged this determination, and on reconsideration, SSA reduced the offsettable amount by $3,400 for attorney's fees, leaving a balance of $13,600 to be offset against social security benefits. Plaintiff then requested a hearing before an Administrative Law Judge ("ALJ"), claiming that the $11,632 portion of his settlement for permanent partial impairment was not subject to offset. The ALJ issued a decision holding that the entire $13,600 represented a payment in lieu of weekly worker's compensation benefits and must therefore be offset against plaintiff's social security benefits. The decision was affirmed by the Appeals Council.

Plaintiff brought this action in district court, claiming that the Secretary erred in including in the offset amount that part of the lump sum award representing compensation for permanent bodily loss under RSA 281:26. The district court adopted the reasoning in *Lemire* v. *Secretary of Health and Human Services*, 682 F.Supp.102 (D.N.H.1988), which had decided the identical issue. The court held that "disability" as used in the Federal offset provision, which requires reduction of social security benefits when the claimant receives "disability" benefits under a worker's compensation law, 42 U.S.C. 424a(a), applies only to benefits received for the loss or impairment of a claimant's earning power. Concluding that plaintiff's award for partial permanent bodily loss pursuant to RSA 281:26 was not an award to compensate for loss of earning capacity, the district court held that the Secretary had erred in offsetting those benefits under section 424a and granted plaintiff's motion to reverse the Secretary's decision.

II. Discussion

42 U.S.C. 424a(a) requires that social security disability benefits paid pursuant to 42 U.S.C. 423 be reduced for any month during which the individual receives "periodic benefits on account of such individual's total or partial disability (whether or not permanent) under * * * a workmen's compensation law or plan of the United States or a State * * *." Where an individual receives both worker's compensation benefits and social security benefits, the total benefits received may not exceed eighty percent of his predisability income. 42 U.S.C. 424a(a).[3] The offset provision was enacted to prevent the duplication of disability benefits that had resulted in payments in excess of predisability earnings, which was perceived by Congress to have "reduced the incentive of the worker to return to the job, and impeded the rehabilitative efforts of the state programs." *Richardson* v. *Belcher*, 404 U.S. 78, 82–

[1] Although the record does not disclose the nature of the plaintiff's injury, we were advised by his counsel at oral argument that he suffered a partial loss of the use of his legs.

[2] 42 U.S.C. 424a, "Reduction of disability benefits," provides in pertinent part:

If for any month prior to the month in which an individual attains the age of 65—

(1) Such individual is entitled to benefits under section 423 of this title, and

(2) Such individual is entitled for such month to periodic benefits on account of such individual's total or partial disability (whether or not permanent) under—

* * * a workmen's compensation law or plan of the United States or a State * * *

* * * the total of his benefits under section 423 of this title for such month and of any benefits under section 402 of this title for such month based on his wages and self-employment income shall be reduced (but not below zero) by the amount by which the sum of—

(3) Such total of benefits under section 423 and 402 of this title for such month, and

(4) Such periodic benefits payable (and actually paid) for such month to such individual under such laws or plans, exceeds the higher of—

(5) 80 per centum of his "average current earnings", or

(6) The total of such individual's disability insurance benefits under section 423 of this title for such month and of any monthly insurance benefits under section 402 of this title for such month based on his wages and self-employment income, prior to reduction under this section.

[3] Lump sum settlements, if they substitute for periodic payments, are also subject to offset. 42 U.S.C. 424a(b).

83, 92 S.Ct. 254, 258, 30 L.Ed.2d 231 (1971).

All of plaintiff's benefits were awarded under the New Hampshire worker's compensation law. One portion, not at issue here, was awarded under RSA 281:23, "Compensation for Total Disability." [4] The remainder, exclusive of attorney's fees and future medical expenses, was awarded under RSA 281:26, "Scheduled Permanent Impairment Award." [5] It is this award that plaintiff claims, and the district court held, is exempt from the federal offset provision. Plaintiff relies on the *Lemire* decision, which held that New Hampshire distinguishes between "disability" awards for loss of earning ability and "scheduled" awards for the loss of a body part, only the former of which are to be offset under section 424a. *See Lemire,* 682 F.Supp. at 104–105. Based on our interpretation of New Hampshire law, we disagree.[6]

In the leading case of *Ranger* v. *New Hampshire Youth Development Center,* 117 N.H. 648, 377 A.2d 132 (1977), Chief Justice Kenison analyzed the state worker's compensation statute in a comparison of the two provisions pertinent here. Ranger had suffered a work-related injury to his eye in 1966, for which he received worker's compensation benefits for lost wages under section 23. Then, in 1975, his doctor determined he had suffered permanent loss of sight, entitling him to a scheduled permanent impairment award under 26. *Id.* 377 A.2d at 133. The sole issue in the case was which date—when the injury occurred or when the subsequent loss of the injured body part was disclosed—was the reference point from which to calculate a claimant's benefits. *Id.* It was in the context of arriving at the latter as the operative date that the New Hampshire Supreme Court explained that scheduled permanent impairment awards are "in addition to and wholly independent of" the other, i.e. 'disability," benefits provided in the statute. *Id.* 377 A.2d at 134. After discussing the history of the scheduled benefits provision, the *Ranger* court stated, "It is now an additional award which compensates for injury regardless of whether there is an actual wage loss. 2A. Larson, The Law of Workmen's Compensation § 58.11 (1976). To this extent it is unrelated to the other benefits available under the statute."*Id.*

By this language, we do not understand the *Ranger* court to have distinguished between awards for disability and those for mere injury. Worker's compensation, as explained by the author of the treatise cited by the *Ranger* court, was set up to compensate injured workers for the impairment of their earning capacity, or disability, resulting from work-related injury. 2 A. Larson, The Law of Workmen's Compensation § 57.14 (1989) ("Larson"). Scheduled permanent impairment awards of the type provided by RSA 281:26, however, do not fall outside the general theory of compensation for disability. As Larson explains, under the "schedule principle," members of the body are listed and a fixed number of weeks of compensation for their loss is prescribed. Although this amount is to be paid regardless of any actual loss of wages, it is "quite clear that the schedule was never intended to be a departure from or an exception to the wage-loss principle." *Larson* § 57.14(c) at 10–53–54. Rather, the schedule of listed permanent impairments was warranted because "the gravity of the impairment supported a conclusive presumption that actual wage loss would sooner or later result * * *." *Id.* at 10–54. See *Ladner* v. *Secretary of H.E.W.,* 304 F. Supp. 474, 476 (S.D.Miss.1969) (under federal Longshoremen's and Harbor Workers' Compensation Act, " 'loss of wage earning capacity and its extent are conclusively established when one of the enumerated physical impairments is proven to have arisen out of the employment' " (citation omitted)); *Adams Insulation Co.* v. *Industrial Commission of Ariz.,* 163 Ariz. 555, 558, 789, P.2d 1056, 1059 (1990) (en banc) (compensation under scheduled permanent impairment provision based not on actual loss of earning capacity but on "presumption that the injuries result in a specified percentage of permanent partial loss of earning capacity"); *Ernest DiSabatino & Sons, Inc.* v. *Apostolico,* 260 A.2d 710, 713 (Del.Super. 1969) (scheduled permanent impairment provision of statute "based upon a presumption that the nature of a scheduled injury is such that the reduction in the earning capacity will continue into the future whether or not an actual wage loss is incurred" (emphasis original)), *aff'd,* 269 A.2d 552 (Del.Super.1970).

The New Hampshire *Ranger* court announced no more than this in declaring that scheduled awards are paid out "regardless of whether there is an actual wage loss." 377 A.2d at 134 (emphasis added). Moreover, the specific section of the Larson treatise cited by the court as authority for that proposition underscores the essential commonality between scheduled benefits and wage-loss, or so-called disability, benefits. Reiterating that the individual's actual predisability earnings are immaterial to the amount of the scheduled award, Larson continues:

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[4] RSA 281:23 provides:

An employer subject to this chapter, or his insurance carrier, shall pay to an employee sustaining a personal injury as defined in RSA 281:2, V, compensation during a period of total disability, but not including the first 3 days thereof, unless such disability continues for 7 days or longer, as follows:

I. If an employee's average weekly wage is 40 percent or less of the state's average weekly wage, weekly compensation shall be the full amount of said employee's average weekly wage.

II. If an employee's average weekly wage is over 40 percent of the state's average weekly wage, weekly compensation shall be 66⅔ percent of said employee's average weekly wage or 40 percent of the state's average weekly wage, whichever is greater, but, in no event, shall weekly compensation exceed 150 percent of the state's average weekly wage rounded off to the nearest dollar as determined by the labor commissioner for the year in which the injury occurred. For purposes of this section, the state's average weekly wage shall be established by the department of employment security for the immediate preceding calendar year to be effective the following July 1.

[5] RSA 281:26 provides in pertinent part,

I. Except when death results from injury, in addition to other benefits payable under this chapter, an award shall be paid to employees in amounts provided by RSA 281:23, for the number of weeks set forth hereunder, for permanent bodily loss or losses: [setting forth specific bodily losses at designated numbers of weeks]

* * * I-a. If injury results in more than one permanent bodily loss specified in paragraph I, an award shall be made on the basis of a maximum of 350 weeks, with the appropriate number of weeks to be determined in proportion to the maximum in accordance with the percent of the whole person specified for such bodily losses in the most recent edition of "Guides to the Evaluation of Permanent Impairment" published by the American Medical Association.

II. Except when death results from injury, the scheduled awards under this section accrue to the injured employee simply by virtue of the loss or loss of the use of a member of the body, there being conferred upon the employee a right which is separate and independent of the rights provided by RSA 281:23 and 25.

III. Payment of the scheduled award becomes due upon prompt medical disclosure, after maximum medical improvement has been achieved, regarding the loss or loss of use of the member of the body and shall begin, upon notice of the labor commissioner, as soon as possible, but no later than 14 days after the end of the healing period. Payment of the scheduled award shall generally be made through weekly benefits rather than through single payment, except for a single payment approved by the commissioner of labor upon his determination that a single payment fits the unique conditions of the injured worker better than weekly payments.

IV. In event of dispute as to amount of compensation and/or percentage of permanent partial loss or losses the same shall be determined by the labor commissioner on the basis of competent medical evidence and said findings shall be final.

V. The balance of unpaid weekly scheduled award shall, upon the death of the employee, be void.

[6] We are bound to review the lower court's interpretation of state law *de novo. Salve Regina College* v. *Russell.,* ____ U.S. ____, 111 S.Ct. 1217, 1221, 113 L.Ed.2d 190 (1991).

This is not, however, to be interpreted as an erratic deviation from the underlying principle of compensation law—that benefits relate to loss of earning capacity and not to physical injury as such. The basic theory remains the same; the only difference is that the effect on earning capacity is a conclusively presumed one, instead of a specifically proved one based on the individual's actual wage-loss experience.

Larson § 58.11 at 10–323–324 (footnotes omitted).

Thus, the New Hampshire Supreme Court, adopting by reference this explanation of the scheduled-loss aspect of worker's compensation law, stated that compensation under RSA 281:26 was for injury whether or not impairment of earning capacity occurred and that "[t]o this extent" the scheduled impairment award "is unrelated to the other benefits available under the statute." 377 A.2d at 134. We think the import of this comparison with the other benefits is clear on its face: "[t]o [the] extent" that the scheduled impairment award compensates regardless of actual wage loss, it is unrelated to the wage loss disability benefits. Otherwise, the scheduled award is *not* unrelated and in fact is calculated based on a percentage of wages. *See Ranger*, 377 A.2d at 133 (noting section 26 benefits paid in amounts provided in section 23, which bases compensation "upon a percentage of the employee's average weekly wage"). To the extent that the scheduled impairmen award compensates for a conclusively presumed wage loss, it does relate to the other benefits under the state's worker's compensation system. As the New Hampshire Supreme Court stated on an earlier occasion, speaking comprehensively of the state's worker's compensation laws.

The distinctive feature of the compensation system by contrast with tort liability is that its awards (apart from medical benefits) are made not for physical injury as such, but for disability produced by such injury. 2 Larson's, Workmen's Compensation Law, 2. Compensable disability under the act consists in loss of earning capacity due to injury.

Desrosiers v. *Dionne Bros. Furniture*, 98 N.H. 424, 101 A.2d 775, 777 (1953).

Benefits under New Hampshire's worker's compensation law, therefore, are for compensable disability, whether resulting in actual loss of earning capacity under section 23 or in conclusively presumed loss of earning capacity flowing from permanent impairment of a body part under section 26. The award for scheduled permanent impairment is therefore a disability benefit subject to the 42 U.S.C. 424a offset provision.

Both the plaintiff and the Secretary would have us decide this case on the basis of whether to apply a uniform federal definition to "disability" under 424a or one dependent on the variations among the states' worker's compensation systems. Guidance from other circuits is sparse.[7] One court, faced with determining whether a certain settlement of an Iowa worker's compensation claim was within or without the offset provision, concluded that the question was one of federal law. *Munsinger* v. *Schweiker*, 709 F.2d 1212, 1217 (8th Cir.1983). The Sixth Circuit in *Grant* v. Weinberger,* 482 F.2d 1290 (6th Cir. 1973), considering, as do we, whether state benefits paid simply on account of the loss are offsettable under section 424a, appeared to decide the issue under both state and federal law. *Id.* at 1292. Noting that under Michigan law, as in New Hampshire, the specific-loss benefits did not depend on actual incapacity to work, the court stated,

This fact, however, does not serve to remove these benefits from the Michigan Workmen's Compensdation plan or to demonstrate any Congressional intent to exclude them under section 424a.

Since the benefits for specific loss which are the subject of this dispute are provided for the months concerned "under a workmen's compensation law or plan * * * of * * * a State" the offset mandated by the statute must be given effect.

Id.

We think that the parties have focused the inquiry too narrowly. Rather than decide whose definition of "disability" governs offset questions, we believe, as did the Sixth Circuit in *Grant*, that the question is whether the award at issue is a periodic benefit under a state workmen's compensation law or plan. We hold that it is.[8]

Although we think the result we reach flows from the plain meaning of section 424a, we also find persuasive the legislative history indicating Congress intended this result. Senator Edward Kennedy's remarks during the debate on the Social Security Amendments of 1965 focus on the "unfortunate effects" of the operation of the offset provision in a case involving scheduled permanent impairment benefits:

> The offset in the Senate bill applies to workmen's compensation benefits for partial disability. It is general practice in workmen's compensation to pay compensation for many of these kinds of injuries even if earnings continue or even increase. For example, if a worker loses some fingers even though he suffers no wage loss, the worker receives workmen's compensation benefits for the loss of the fingers. The same principle applies to loss of arms, legs, hands, and so forth. The justice of such compensation has seemed obvious to most people—both experts and the average citizen. Yet the offset proposal would reduce the worker's OASDI benefit wholly or partially by the amount of these workmen's compensation payments. In other words, in many cases he would not gain monetarily for this kind of anatomical loss * * *

111 Cong. Rec. 16151 (1965). The situation at bar was thus contemplated by the offset provision as enacted, notwithstanding Senator Kennedy's criticism.[9]

* * * * *

The judgment below is *Reversed*.

[FR Doc. 92–14386 Filed 6–19–92; 8:45 am]

BILLING CODE 4190–29–M

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[7] We note that plaintiff's reliance on a case within our circuit is misplaced. In *MacQuarrie* v. *Secretary of Health and Human Services*, 639 F.Supp. 1357 (D.Mass. 1986), the claimant appealed the inclusion of an $8,000 award to his spouse in the offsettable amount. Although, as plaintiff states, the ALJ had excluded awards for bodily disfigurement and loss of bodily function from offset, the court did not hold, contrary to plaintiff's representation, that these awards were not disability awards and were therefore exempt from offset; the treatment of these awards was never challenged by the Secretary. Nor did the court, contrary to plaintiff's reading of the case, hold that the $8,000 spousal award must also be excluded from the offset amount. In fact, the precise question was left unanswered for remand, *id.* at 1361, the court stating, "Only after a more complete development of the facts in this case * * * can this Court determine the applicability of the offset provisions." *Id.* at 1362.

*NOTE: The *Grant* decision is the subject of SSR 74–21c (C.E. 1971–1975).

[8] The legislative history indicates that Congress intended to exclude from offset only workers' "medical, legal, or related expenses [incurred] in connection with their workmen's compensation claims, or in connection with the injuries they have suffered * * *." S. Rep. No. 404, 89th Cong., 1st Sess., *reprinted in* 1965 U.S. Code Cong. & Admin. News 1943, 2200–01. This intent finds expression in the social security regulations. *See* 20 C.F.R. 404.408(d).

[9] In light of our holding we do not reach the Secretary's claim that he should be permitted to examine the plaintiff's award for evidence to substantiate the amount allocated as payment for permanent loss.

[Social Security Acquiescence Ruling 92–5(9)]

Quinlivan v. Sullivan; Meaning of the Term "Against Equity and Good Conscience" in the Rules for Waiver of Recovery of an Overpayment

AGENCY: Social Security Administration, HHS.

ACTION: Notice of Social Security Acquiescence Ruling.

SUMMARY: In accordance with 20 CFR 422.406(b)(2) published January 11, 1990 (55 FR 1012), the Commissioner of Social Security gives notice of Social Security Acquiescence Ruling 92-5(9).

EFFECTIVE DATE: June 22, 1992.

FOR FURTHER INFORMATION CONTACT: Walt Burton, Litigation Staff, Social Security Administration, 6401 Security Blvd., Baltimore, MD 21235, (410) 966-5041.

SUPPLEMENTARY INFORMATION: Although not required to do so pursuant to 5 U.S.C. 552(a)(1) and (a)(2), we are publishing this Social Security Acquiescence Ruling in accordance with 20 CFR 422.406(b)(2).

A Social Security Acquiescence Ruling explains how we will apply a holding in a decision of a United States Court of Appeals that we determine conflicts with our interpretation of a provision of the Social Security Act or regulations when the Government has decided not to seek further review or is unsuccessful on further review.

We will apply the holding of the Court of Appeals decision as explained in this Social Security Acquiescence Ruling to claims at all levels of administrative adjudication within the Ninth Circuit. This Social Security Acquiescence Ruling will apply to all determinations and decisions made on or after June 22, 1992. If we made a determination or decision on your application for benefits between October 9, 1990, the date of the Court of Appeals' decision and June 22, 1992, the effective date of this Social Security Acquiescence Ruling, you may request application of the Social Security Acquiescence Ruling to your claim if you first demonstrate, pursuant to 20 CFR 404.985(b), 410.670c(b), or 416.1485(b), that application of the Ruling would change our prior determination or decision.

If this Social Security Acquiescence Ruling is later rescinded as obsolete, we will publish a notice in the **Federal Register** to that effect as provided for in 20 CFR 404.985(e), 410.670c(e), or 416.1485(e). If we decide to relitigate the issue covered by this Social Security Acquiescence Ruling as provided for by 20 CFR 404.985(c), 410.670c(c), or 416.1485(c), we will publish a notice in the **Federal Register** stating that we will apply our interpretation of the Act or regulations involved and explaining why we have decided to relitigate the issue.

(Catalog of Federal Domestic Assistance Programs Nos. 93.802 Social Security—Disability Insurance; 93.803 Social Security—Retirement Insurance; 93.805 Social Security Survivor's Insurance; 93.806—Special Benefits for Disabled Coal Miners; 93.807—Supplemental Security Income)

Gwendolyn S. King,
Commissioner of Social Security.

Acquiescence Ruling 92-5(9)

Quinlivan v. *Sullivan*, 916 F.2d 524 (9th Cir. 1990)—Meaning of the Term "Against Equity and Good Conscience" in the Rules for Waiver of Recovery of an Overpayment—Titles II and XVI of the Social Security Act; Title IV of the Federal Mine Safety and Health Act of 1977. [1]

Issue

Whether the Secretary may find that recovery of an overpayment is "against equity and good conscience" only under the specific circumstances set forth in the regulations.

Statute/Regulation/Ruling Citation

Sections 204(b) and 1631(b)(1)(B) of the SocialSecurity Act (42 U.S.C. 404(b) and 1383(b)(1)(B)), 20CFR 404.506, 404.509, 410.561a, 410.561d, 416.550, and 416.554; Section 413(b) of the Federal Mine Safety and Health Act of 1977 (30 U.S.C. 923(b)).

Circuit

Ninth (Alaska, Arizona, California, Guam, Hawaii (including American Samoa), Idaho, Montana, Nevada, Northern Mariana Islands, Oregon, Washington); *Quinlivan* v. *Sullivan*, 916 F.2d 524 (9th Cir. 1990).

Applicability of Ruling

This Ruling applies to determinations or decisions at all administrative levels (i.e., initial, reconsideration, administrative law judge hearing and Appeals Council).

Description of Case

The plaintiff, Mr. Quinlivan, was incarcerated from 1963 to 1985 for a felony conviction. He received disability insurance benefits while in prison.

In 1980, the Social Security Act was amended to prohibit payment of disability benefits to certain incarcerated felons. Mr. Quinlivan continued to be paid benefits from 1980 to 1982, resulting in erroneous payments. He was unaware of the change in the law and was without fault in receiving these payments.

After receiving a booklet from the Social Security Administration (SSA) in early 1982, Mr. Quinlivan wrote a letter to SSA informing it of his situation. SSA then sent him a notice stating that he had been overpaid for two years and requested repayment. He requested reconsideration and a waiver of recovery of the overpayment. Apparently this request was not processed and another notice of overpayment was sent in 1984. The plaintiff again sought waiver of recovery of the overpayment. A personal conference with anSSA representative was held in 1984, but no decision was issued at that time.

Mr. Quinlivan was released from prison in 1985. He spent his accumulated savings, including the overpayment. In 1987, SSA denied his request for reconsideration and Mr. Quinlivan thereafter requested a hearing. In 1988, an Administrative Law Judge denied the request for waiver of the recovery of the overpayment and this decision became the final decision of the Secretary when the Appeals Council denied review. Mr. Quinlivan then sought judicial review in the district court. The district court affirmed the Secretary's decision and Mr. Quinlivan filed an appeal with the United States Court of Appeals for the Ninth Circuit.

Holding

The Ninth Circuit Court of Appeals held that requiring Mr. Quinlivan to repay the overpayment would be against equity and good conscience.

The court indicated that although the Social Security Act does not define the phrase "against equity and good conscience," the Secretary has interpreted it in 20 CFR 404.509(a) to be limited to situations where the claimant changed his or her position for the worse, relinquished a valuable right, or lived in a separate household from the overpaid person at the time of the overpayment and did not receive the overpayment. In making its decision on this case, the court stated that the question before it was "whether the agency's interpretation is based on a reasonable construction of the statute."

The court held that the legislative history of section 204(b) of the Social Security Act demonstrates that Congress intended to broaden the availability of waiver and that the Secretary's interpretation of the phrase "against equity and good conscience" was too narrow. Accordingly, the court concluded that:

[T]he meaning of the phrase, "against equity and good conscience," cannot be limited to the three narrow definitions set

[1] Although *Quinlivan* was a title II case, the phrase "against equity and good conscience" is similarly defined in regulations governing the title XVI Supplemental Security Income program and in the Secretary's regulations concerning benefits under the Federal Mine Safety and Health Act of 1977. Therefore, this Ruling extends to title II and title XVI claims under the Social Security Act and to claims for Black Lung benefits.

forth in the Secretary's regulation. Congress intended a broad concept of fairness to apply to waiver requests, one that reflects the ordinary meaning of the statutory language and takes into account the facts and circumstances of each case.

In applying this standard, the court noted that Mr. Quinlivan had no material goods, no means of transportation, no income and he had only worked sporadically in a few temporary jobs. Additionally, the court pointed to the presence of a psychological impairment as a factor in favor of waiver of recovery of the overpayment. Given these circumstances, the court found it would be against "equity and good conscience" to have Mr. Quinlivan repay the funds.

Statement As To How Quinlivan Differs From Social Security Policy

Under 20 CFR 404.509(a), 410.561d, and 416.554, recovery of an overpayment is "against equity and good conscience" if the individual has changed his or her position for the worse or relinquished a valuable right because of reliance upon a notice that a payment would be made or because of the overpayment itself. In addition, recovery is considered to be "against equity and good conscience" under title II and title XVI, if the individual was living in a separate household from the overpaid person (title II) or his or her eligible spouse (title XVI) and did not receive the overpayment. These specific circumstances are the only ones which permit a waiver of recovery of an overpayment on the basis that recovery is "against equity and good conscience" under SSA policy.

As stated above, the Ninth Circuit has held that the phrase, "against equity and good conscience," cannot be limited to the three specific definitions set forth in the regulations, but rather a broad concept of fairness is to be applied under which *all* the facts and circumstances of the case must be taken into account. The court emphasized that its interpretation of the equity and good conscience standard does not mean that, whenever an individual is found to be without fault in creating the overpayment, it necessarily follows that waiver is appropriate. The court noted that the standard must be cautiously applied to the circumstances of each case.

Explanation Of How SSA Will Apply The Decision Within The Circuit

This Ruling applies only to cases involving claimants who reside in Alaska, Arizona, California, Guam, Hawaii (including American Samoa), Idaho, Montana, Nevada, NorthernMariana Islands, Oregon, or Washington at the time of the determination or decision at the initial, reconsideration, Administrative Law Judge or Appeals Council levels.

If it is determined that a claimant is "without fault" in causing or accepting an overpayment, it may need to be determined whether adjustment or recovery of the overpayment would be "against equity and good conscience." In determining whether recovery of an overpayment would be "against equity and good conscience," the adjudicator will not limit his or her inquiry to the three specific circumstances set forth in the regulations. The decision must take into account all of the facts and circumstances of the case and be based on a broad concept of fairness. Factors such as, but not limited to, the nature of the claimant's impairment, the amount and steadiness of the claimant's income, and the claimant's assets and material resources should all be considered in the decision as to whether recovery of an overpayment should be waived on the basis that recovery would be "against equity and good conscience."

[FR Doc. 92-14522 Filed 6-19-92; 8:45 am]
BILLING CODE 4190-29-F

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Administration

[Docket No. N-92-3456]

Submission of Proposed Information Collection to OMB

AGENCY: Office of Administration, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and should be sent to: Jennifer Main, OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Kay F. Weaver, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, Southwest, Washington, DC 20410, telephone (202) 708-0050. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Ms. Weaver.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. chapter 35).

The notice lists the following information:

(1) The title of the information collection proposal;

(2) The office of the agency to collect the information;

(3) The description of the need for the information and its proposed use;

(4) The agency form number, if applicable;

(5) What members of the public will be affected by the proposal;

(6) How frequently information submissions will be required;

(7) An estimate of the total number of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response;

(8) Whether the proposal is new or an extension, rein statement, or revision of an information collection requirement; and

(9) The names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Authority: Sec. 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Date: June 12, 1992.

Kay Weaver,

Acting Director, Information Resources Management Policy and Management Division.

Notice of Submission of Proposed Information Collection to OMB

Proposal: Housing Opportunities for Persons with AIDS (HOPWA) Program (FR-3178)

Office: Community Planning and Development

Description of the Need for the Information and its Proposed Use: The HOPWA program provides entitlement and competitive grants to States and units of local government for housing assistance and supportive services for persons with AIDS for which applications, certifications, waivers, and annual reports will be filed.

Form Number: SF-424 and Certifications

Respondents: State and Local Governments

Frequency of Submission: Recordkeeping, Annually and Application

Reporting Burden:

	Number of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
Applications	48		3		20.8		2,990
Recordkeeing	48		5		1		240

Total Estimated Burden Hours: 3,230

Status: New

Contact: James N. Forsberg, (202) 708–1234, Jennifer Main, OMB, (202) 395–6880

Dated: June 12, 1992.

[FR Doc. 92–14531 Filed 6–19–92; 8:45 am]

BILLING CODE 4210-01-M

[Docket No. N-92-3457]

Submission of Proposed Information Collection to OMB

AGENCY: Office of Administration, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and should be sent to: Jennifer Main, OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Kay F. Weaver, Reports Management Office, Department of Housing and Urban Development, 451 7th Street, Soutwest, Washington, DC 20410, telephone (202) 708–0050. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Ms. Weaver.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. chapter 35).

The notice lists the following information:

(1) The title of the information collection proposal;

(2) The office of the agency to collect the information;

(3) The description of the need for the information and its proposed use;

(4) The agency form number, if applicable;

(5) What members of the public will be affected by the proposal;

(6) How frequently information submissions will be required;

(7) An estimate of the total number of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response;

(8) Whether the proposal is new or an extension, rein statement, or revision of an information collection requirement; and

(9) The names and telephone number of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Authority: Sec. 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: June 12, 1992.

Kay Weaver,

Acting Director, Information Resources Management Policy and Management Division.

Notice of Submission of Proposed Information Collection to OMB

Proposal: Supportive Housing Demonstration Program (SHDP)—National Evaluation (FR–2878)

Office: Policy Development and Research.

Description of the Need for the Information and its Proposed Use: The National program evaluation will provide information for Congressional reporting requirements, guidance to future applicants, and the first report on program costs, services, population groups served, and operations of local housing projects assisted by the Supportive Housing Demonstration Program. The evaluation includes a mail questionnaire and case studies.

Form Number: None

Respondents: State or Local Governments and Non-Profit Institutions

Frequency of Submission: Recordkeeping and One-time

Reporting Burden:

	Number of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
Information collection	918		1.05		2.64		2,545
Recordkeeping	738		1		.25		185

Total Estimated Burden Hours: 2,730

Statue: New

Contact: James E. Hoben, HUD (202) 708–0640, Jennifer Main, OMB, (202) 395–6880

Dated: June 12, 1992.

[FR Doc. 92–14648 Filed 6–19–92; 8:45 am]

BILLING CODE 4210-01-M

[Docket No. N-92-3458]

Submission of Proposed Information Collection to OMB

AGENCY: Office of Administration, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and should be sent to: Jennifer Main, OMB Desk

Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Kay F. Weaver, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, Southwest, Washington, DC 20410, telephone (202) 708-0050. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Ms. Weaver.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. chapter 35).

The Notice lists the following information:

(1) The title of the information collection proposal;

(2) The office of the agency to collect the information;

(3) The description of the need for the information and its proposed use;

(4) The agency form number, if applicable;

(5) What members of the public will be affected by the proposal;

(6) How frequently information submissions will be required;

(7) An estimate of the total number of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response;

(8) Whether the proposal is new or an extension, rein statement, or revision of an information collection requirement; and

(9) The names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Authority: Sec. 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: June 15, 1992.

John T. Murphy,

Director, Information Resources Management Policy and Management Division.

Proposal: Title II Approval of Mortgagees/Eligibility Requirements (FR-2854)

Office: Housing

Description of the Need for the Information and its Proposed Use: Participating mortgagees in HUD's mortgage insurance programs are required to obtain prior approval. The information collection requires the modifications for the mortgagees to qualify for the insured loan programs.

Form Number: HUD-92001, 92001B, 920001C, 92001D, 92001E and 92001V

Respondents: Businesses or Other For-Profit

Frequency of Submission: On Occasion and Annually

Reporting Burden:

	Number of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
Application for approval	350		1		1		350
Application for loan correspondent	410		1		1		410
Title II approval	956		1		.25		239
Yearly verification report	8,600		1		.25		2,150
Audited financial Statement	2,825		1		1		2,825

Total Estimated Burden Hours: 5,974

Status: Revision

Contact: David S. Callaway, HUD, (202) 708-1824 Jennifer Main, OMB, (202) 395-6880

Dated: June 15, 1992.

[FR Doc. 92-14649 Filed 6-19-92; 8:45 am]

BILLING CODE 4210-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[ES-940-02-4120-14-241A; KYES 43168]

Request for Public Comment on Fair Market Value, Maximum Economic Recovery and the Environmental Assessment; Coal Lease by Application KYES 43168

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Public Hearing and Comment Period.

SUMMARY: The Bureau of Land Management requests public comments on the fair market value, maximum economic recovery and the environmental assessment of certain coal resources it proposes to offer for competitive lease sale. The lands included in Coal Lease Application KYES 43168 are located in the Fishtrap Dam and Reservoir Project, Pike County, Kentucky. The Federal Government owns 100% of the mineral estate. The lands in the application are: Corps of Engineers, Lick Creek Station Tract, Mineral Tract Nos. 1758 M, 1759 M, 1763 M-1, 1763 and 1558 M-2, containing approximately 102 acres.

The range of quality of the coal within the proposed lease is as follows:

CLINTWOOD COAL SEAM

[Recoverable Coal 210,000 short tons]

Proximate analysis (percent)	Dry basis
Ash	39.90
Volatile	34.51
BTU/1b	13,951
Sulfur	1.33

The public is invited to submit written comments on the fair market value and the maximum economic recovery of the resource. In addition, notice is also given that a public hearing will be held on June 29, 1992 on the environmental assessment, the proposed sale, the fair market value and the maximum economic recovery of the proposed lease tracts.

DATES: Written comments must be received on or before June 26, 1992.

ADDRESSES: The public hearing will be held on June 29, 1992 at the Landmark Inn, 146 S. Mayo Trail, Pikeville, Kentucky 41501 at 7 p.m. in the Banquet Room.

FOR FURTHER INFORMATION CONTACT: For more complete data on this tract, please contact Pearl Flaver Tillman at (703) 461-1468 or Ian Senio at (703) 461-1445 at the Bureau of Land Management, Eastern States, 350 South Pickett Street, Alexandria, Virginia 22304.

SUPPLEMENTARY INFORMATION: In accordance with the Federal coal management regulations 43 CFR parts 3422 and 3425, not less than 30 days prior to the publication of a notice of sale, the Secretary shall solicit public comments on fair market value appraisal and maximum economic recovery and on factors that may affect these two determinations. Proprietary data marked as confidential may be submitted to the Bureau of Land Management, Eastern States, at the above address, in response to this solicitation of public comments. Data so

marked shall be treated in accordance with the laws and regulations governing confidentiality of such information. A copy of the comments submitted by the public on fair market value and maximum economic recovery, except those portions identified as proprietary by the author and meeting exemptions stated in the Freedom of Information Act, will be available for public inspection at the Bureau of Land Management, Eastern States, at the above address, during regular business hours (7 a.m. to 5 p.m.) Monday through Friday, except Federal holidays.

Comments should be sent to the Bureau of Land Management, Eastern States, at the above address, and should address, but not necessarily be limited to the following information.

1. The method of mining to be employed in order to obtain maximum economic recovery of the coal;

2. The impact that mining the coal in the proposed leasehold may have on the area, including, but not limited to, impacts on the environment; and

3. Methods of determining the fair market value of the coal to be offered.

The coal characteristics given above may or may not change as a result of comments received from the public and changes in market conditions that occur between now and the time at which final economic evaluations are completed.

Dated: June 11, 1992.

Lonna O'Neal,

Acting State Director.

[FR Doc. 92-14516 Filed 6-19-92; 8:45 am]

BILLING CODE 4310-6J-M

[OR-050-4410-10: GP2-285]

Prineville District; Oregon; Supplement to the Draft Lower Deschutes River Management Plan/Environmental Impact Statement

June 12, 1992.

AGENCY: Bureau of Land Management, Interior.

ACTION: Change in notice of availability of the supplement to the Draft Lower Deschutes River Management Plan/Environmental Impact Statement. Interior, Bureau of Land Management, Prineville District Office.

SUPPLEMENTARY INFORMATION: This notice amends the notice of availability published on May 21, 1992, for the Supplement to the Lower Deschutes River Management Plan/EIS by extending the public comment period and adding two public hearings that were not previously scheduled. The supplement considers whether the Bureau of Land Management should obtain access to public lands upstream from the Deschutes Club Locked Gate south of the community of Maupin, located in Wasco County, Oregon.

The supplement to the Draft Plan/EIS was available for public review on June 10, 1992. The public comment period will close on August 10, 1992. Two public hearings will be held as follows: Portland, Oregon, on July 13 in the Second Floor Auditorium of the Portland Building located at 1120 SW. Fifth Avenue at 7 p.m. and in Madras, Oregon, on July 14 at the Jefferson County Fairgrounds in the Macci Conroy Building at 7 p.m. Copies of the plan are available at the Prineville District BLM Office located at 185 East 4th St. (P.O. Box 550), Prineville, OR 97754.

The public is invited to submit written comments on the preferred and other alternatives as well as the analysis of impacts contained in the document. Comments should be mailed to: District Manager, Bureau of Land Management, PO Box 550, Prineville, Oregon 97754.

FOR FURTHER INFORMATION CONTACT: Jim Kenna (telephone 503-447-8757).

DATES: Comments must be received by August 10, 1992.

Donald L. Smith,

Acting District Manager.

[FR Doc. 92-14535 Filed 6-19-92; 8:45 am]

BILLING CODE 4310-33-M

[OR-100-09-6310-02; GP2-291]

Meeting Cancellation

AGENCY: Bureau of Land Management, DOI.

ACTION: Cancellation of advisory council meeting.

SUMMARY: The previously announced meeting of the District Advisory Council for the Bureau of Land Management, Roseburg District (scheduled for June 25, 1992) has been canceled due to unavoidable delays in preparing draft BLM resource management plans for western Oregon. A new date for the meeting will be announced approximately 30 days in advance.

ADDRESSES: Bureau of Land Management, Roseburg District Office, 777 NW Garden Valley Blvd., Roseburg, OR 97470.

FOR FURTHER INFORMATION, CONTACT: Mel Ingeroi, Public Affairs Specialist, (503) 440-4930.

Dated: June 17, 1992.

James A. Moorhouse,

District Manager.

[FR Doc. 92-14687 Filed 6-19-92; 8:45 am]

BILLING CODE 4310-84-M

Salmon District Advisory Council; Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of meeting.

SUMMARY: The Salmon District Advisory Council will meet on Wednesday, July 8, 1992, at the Library, in Leadore, Idaho. The meeting will convene at 10 a.m.

SUPPLEMENTARY INFORMATION: The meeting is held in accordance with Public Laws 92-463 and 94-579. The purpose for the meeting is to discuss the proposed Federal Energy Regulatory Commission projects on Challis/Bear Creeks and Morgan Creek, the White Knob Trestle project, the status of the Challis Resource Management Plan, and current Salmon District issues.

The meeting is open to the public. Interested persons may make oral statements to the Council between 11 a.m. and 11:30 a.m. or file written statements for the Council's consideration. Anyone wishing to make an oral statement must notify the District Manager at the Salmon District Office by July 2, 1992.

Summary minutes to the meeting will be maintained in the District Office and will be available for public inspection and reproduction (during regular business hours) within 30 days following the meeting. Notification of oral statements and requests for summary minutes should be sent to Roy S. Jackson, District Manager, Salmon District BLM, Box 430, Salmon, Idaho 83467.

Dated: June 5, 1992.

Mark E. Johnson

Acting District Manager.

[FR Doc. 92-14569 Filed 6-19-92; 8:45 am]

BILLING CODE 4310-GG-M

[CO-920-92-4111-15; COC51208]

Colorado; Proposed Reinstatement of Terminated Oil and Gas Lease

Under the provisions of Public Law 97-451, a petition for reinstatement of oil and gas lease COC51208, Jackson County, Colorado, was timely filed and was accompanied by all required rentals and royalties accruing from April 1, 1992, the date of termination.

No valid lease has been issued affecting the lands. The lessee has agreed to new lease terms for rentals and royalties at rates of $10 per acre and 16⅔ percent, respectively. The lessee has paid the required $500 administrative fee for the lease and has reimbursed the Bureau of Land

Management for the cost of this **Federal Register** notice.

Having met all the requirements for reinstatement of the lease as set out in section 31(d) and (e) of the Mineral Leasing Act of 1920, as amended, (30 U.S.C. 188(d) and (e), the Bureau of Land Management is proposing to reinstate the lease effective April 1, 1992, subject to the original terms and conditions of the lease and the increased rental and royalty rates cited above.

Questions concerning this notice may be directed to Joan Gilbert of the Colorado State Office at (303) 239-3783.

Dated: June 9, 1992.

Janet M. Budzilek,

Chief, Fluid Minerals Adjudication Section.

[FR Doc. 92-14532 Filed 6-19-92; 8:45 am]

BILLING CODE 4310-JB-M

[NM-930-02-4212-02]

Redelegation of Authority for Lands Casework, New Mexico; Correction

AGENCY: Bureau of Land Management, Interior.

ACTION: Correction.

SUMMARY: In document 92-11920 appearing on page 21668 in the issue of Thursday, May 21, 1992, the phrase Summary Information should read Supplementary Information.

Dated: June 10, 1992.

Monte G. Jordan.

State Director.

[FR Doc. 92-14534 Filed 6-19-92; 8:45 am]

BILLING CODE 4310-FB-M

[CA-060-02-4212-13; CA-29832]

Exchange of Public and Private Lands Riverside and San Diego Counties, CA

AGENCY: Bureau of Land Management.

ACTION: Amendment and correction to notice of realty action, CA-29832.

SUMMARY: This notice amends and corrects the Notice of Realty Action published in the **Federal Register** on April 28, 1992, Vol. 57, No. 82, page 17925 as follows:

In the third column, the paragraph beginning "In exchange for these lands" is revised to read as follows:

"In exchange for these lands, the United States will acquire the following nonfederal lands for Tom Maxwell, Zane Parker and David Mielke:".

In the third column, the introductory text under the heading "San Bernardino Meridian, San Diego County, California is revised to read as follows:

T. 8 ½ S., R. 3 E.,

Sec. 36: Lots 1-4, Lots 6-8, Lot 5 Excepting therefrom that portion described as follows:

FOR FURTHER INFORMATION CONTACT: Mary Murphy, (619) 251-0812, BLM Palm Springs-South Coast Resource Area, 63-500 Garnet Avenue, PO. Box 2000, North Palm Springs CA 92258-2000.

Dated: June 10, 1992.

Alan Stein,

Acting District Manager.

[FR Doc. 92-14533 Filed 6-19-92; 8:45 am]

BILLING CODE 4310-40-M

DEPARTMENT OF INTERIOR

[CO-070-4333-10-241A]

Notice of Intent to Amend the Glenwood Springs Resource Management Plan

AGENCY: Bureau of Land Management, Department of Interior.

ACTION: Proposed Glenwood Springs Resource Area Resource Management Plan Amendment.

SUMMARY: This notice is issued pursuant 43 CFR 1610.5-5 to advise the public that the BLM intends to amend the Glenwood Springs Resource Management Plan (RMP) for a change in the Off Highway Vehicle (OHV) use designation, imposing overnight camping use restrictions, identifying new recreational developments and withdrawals to accommodate recreational use and protect important riparian, wildlife habitat, and recreational resource values.

EFFECTIVE DATE: Public comments on the proposed RMP amendment will be accepted until August 6, 1992. Written comments should be submitted to the Area Manager, Glenwood Springs Resources Area at the address shown below.

SUPPLEMENTARY INFORMATION: The amendment to the RMP is being considered in response to a Recreation Area Management Plan (RAMP) for the Eagle River Recreation Management Area, which identifies resource damage is occurring at recreation sites from motorized vehicle use off the existing roads and parking areas, firewood cutting, proliferating firerings, littering and trash dumping, and improper disposal of human waste. The RAMP identifies a short term and long term management program for recreational management of public lands along the Eagle River, including road and parking area improvements and other facility developments to accommodate a variety of recreational uses.

The current OHV designation for the Management Area is "open", allowing vehicular use on and off roads and trails. The proposed RMP amendment would limit use of motorized vehicles to designated roads and trails pursuant to 43 CFR part 8340 to prevent resource damage and protect fragile riparian values. The amendment would reduce the number of acres in the Glenwood Springs Resource Area designated "open" from approximately 397,946 to approximately 397,411 acres, and increase the acreage under a "limited" designation from approximately 148,476 to 149,011 acres. The Recreational Management Area is currently open to a variety of dispersed recreation activities including camping under an existing 14 day camping stay limitation, and rules and regulations for general public lands at 43 CFR 8365.1. Sanitation and camping facilities are not available at the existing developed and undeveloped recreation sites. The proposed amendment would prohibit overnight camping until adequate sanitation and camping facilities are provided at designated campgrounds. There are two existing developed recreation sites in the Management Area, and heavy, concentrated use is established at seven undeveloped sites. The proposed amendment would provide for facility development at new additional sites, and establish management of the Eagle River Special Recreational Management Area under rules and regulations for developed sites and areas at 43 CFR 8365.2. Facility development will proceed as construction funding becomes available through the normal Bureau budget process. Public lands in the Management Area are open to entry under the general land laws. The proposed amendment would identify the withdrawal to withhold the public lands in the Recreation Management Area from mineral location or entry under the 1872 mining laws in order to protect riparian, wildlife habitat and recreational values, and capital investments. Withdrawal procedures would be initiated pursuant to 43 CFR part 2310 after the amendment is approved.

Public lands affected by the amendment includes approximately 535 acres at several locations along the Eagle River, all in Eagle County between Edwards and the River's confluence with the Colorado River near Dotsero.

The plan and environmental assessment describing the proposed management program for the Eagle River Recreation Management Area and environmental impacts, and legal descriptions of the affected public lands,

is available for Public review and comment at the offices listed below.

Public participation has occurred throughout the recreation area management planning process, which began in March 1991 with identification of issues and initial management proposals. Public involvement was solicited to identify opportunities, issues, and concerns through local news releases, direct mailings, and posting of notices seeking comments and ideas. Comments presented by other government agencies, user groups and other interests have been considered in developing the proposed management plan and environmental assessment. Comments received following this review comment period will be considered in making the final decisions.

FOR FURTHER INFORMATION CONTACT: Michael S. Mottice, Area Manager, Glenwood Springs Resource Area Office, 50629 Highway 6/24, P.O. Box 1009, Glenwood Springs, Colorado 81602, (303) 945–2341; District Manager, Grand Junction District, 2815 H Road, Grand Junction, Colorado 81506 (303) 244–3000.

Richard Arcand,

Acting District Manager.

[FR Doc. 92–14540 Filed 6–19–92; 8:45 am]

BILLING CODE 4310–JB–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Mark L. Fincher, M.D.; Revocation of Registration

On March 19, 1992, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to Mark L. Fincher, M.D., of 1512 Barwick, Norman, Oklahoma 73032, proposing to revoke his DEA Certificate of Registration, AF2685468, and to deny any pending applications for registration as a practitioner. The statutory basis for the Order to Show Cause was that Dr. Fincher's state license to practice medicine had been suspended and he was no longer authorized by state law to handle controlled substances. 21 U.S.C. 824(a)(3).

The Order to Show Cause was served on Dr. Fincher on March 27, 1992. More than thirty days have passed since the Order to Show Cause was received. The Drug Enforcement Administration has received no response from Dr. Fincher or anyone purporting to represent him. Pursuant to 21 CFR 1301.54(d), the Administrator finds that Dr. Fincher has waived his opportunity for a hearing. Accordingly, under the provision of 21 CFR 1301.57, the Administrator enters his final order in this matter, based on findings of fact and conclusions of law as hereinafter set forth.

The Administrator finds that effective June 22, 1991, the Oklahoma State Board of Medical Licensure and Supervision suspended Dr. Fincher's medical license for two years based on his fraudulent misrepresentation of his previous criminal record in an application that he submitted for reinstatement of his medical license. Furthermore, the DEA determined that as of January 28, 1992, Dr. Fincher continued to be unregistered with the Oklahoma Bureau of Narcotics and Dangerous Drugs Control, the controlled substances licensing authority for the State of Oklahoma. Therefore, Dr. Fincher is not authorized to administer, dispense, prescribe, or otherwise handle controlled substances under the laws of the state in which he is registered by DEA.

DEA has consistently held that termination of a registrant's state authority to handle controlled substances requires that DEA revoke the registrant's DEA Certificate of Registration. See *Sam S. Misasi, D.O.*, 50 FR 11469 (1985); *George P. Gotsis, M.D.*, 49 FR 33750 (1984); *Henry Weitz, M.D.*, 46 FR 34858 (1981).

Based on the foregoing, the Administrator concludes that Dr. Fincher's registration must be revoked. 21 U.S.C. 823(f) and 824(a)(3). Accordingly, the Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 824 and 28 CFR 0.100(b), hereby orders that DEA Certificate of Registration, AF2685468, previously issued to Mark L. Fincher, M.D., be, and it hereby is, revoked, and that any pending applications for registration, be, and they hereby are, denied. This order is effective June 22, 1992.

Dated: June 15, 1992.

Robert C. Bonner,

Administrator of Drug Enforcement.

[FR Doc. 92–14541 Filed 6–19–92; 8:45 am]

BILLING CODE 4410–09–M

Manufacturer of Controlled Substances; Application

Pursuant to § 1301.43(a) of title 21 of the Code of Federal Regulations (CFR), this is notice that on February 14, 1992, Ganes Chemicals, Inc., Industrial Park Road, Pennsville, New Jersey 08070, made application to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Schedule
Amobarbital (2125)	II
Pentobarbital (2270)	II
Secobarbital (2315)	II
Glutethimide (2550)	II
Methadone (9250)	II
Methadone intermediate (9254)	II
Dextropropoxyphene, bulk (non-dosage forms) (9273).	II

Any other such applicant and any person who is presently registered with DEA to manufacture such substances may file comments or objections to the issuance of the above application and may also file a written request for a hearing thereon in accordance with 21 CFR 1301.54 and in the form prescribed by 21 CFR 1316.47.

Any such comments, objections, or requests for a hearing may be addressed to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, DC 20537, Attention: DEA Federal Register Representative (CCR), and must be filed no later than July 22, 1992.

Dated: June 11, 1992.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 92–14543 Filed 6–19–92; 8:45 am]

BILLING CODE 4410–09–M

Manufacturer of Controlled Substances; Application

Pursuant § 1301.43(a) of title 21 of the Code of Federal Regulations (CFR), this is notice that on February 24, 1992, Knoll Pharmaceuticals, 30 North Jefferson Road, Whippany, New Jersey 07981, made application to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the Schedule II controlled substance Hydromorphone (9150).

Any other such applicant and any person who is presently registered with DEA to manufacture such substances may file comments or objections to the issuance of the above application and may also file a written request for a hearing thereon in accordance with 21 CFR 1301.54 and in the form prescribed by 21 CFR 1316.47.

Any such comments, objections, or requests, or requests for a hearing may be addressed to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement

Administration, United States Department of Justice, Washington, DC 20537, Attention: DEA Federal Register Representative (CCR), and must be filed no later than July 22, 1992.

Dated: June 11, 1992.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 92-14545 Filed 6-19-92; 8:45 am]

BILLING CODE 4410-09-M

Manufacturer of Controlled Substances; Application

Pursuant to § 1301.43(a) of title 21 of the Code of Federal Regulations (CFR), this is notice that on January 29, 1992, Noramco of Delaware, Inc., Division McNeilab Inc., 500 Old Swedes Landing Road, Wilmington, Delaware 19801, made application to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Schedule
Codeine (9050)	II
Oxycodone (9143)	II
Hydrocodone (9193)	II
Morphine (9300)	II
Thebaine (9333)	II

Any other such applicant and any person who is presently registered with DEA to manufacture such substances may file comments or objections to the issuance of the above application and may also file a written request for a hearing thereon in accordance with 21 CFR 1301.54 and in the form prescribed by 21 CFR 1316.47.

Any such comments, objections, or requests for a hearing may be addressed to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, DC 20537, Attention: DEA Federal Register Representative (CCR), and must be filed no later than July 22, 1992.

Dated: June 11, 1992.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 92-14542 Filed 6-19-92; 8:45 am]

BILLING CODE 4410-09-M

Manufacturer of Controlled Substances; Application

Pursuant to 1301.43(a) of title 21 of the Code of Federal Regulations (CFR), this is notice that on January 30, 1992, Smithkline Beecham Chemicals, Division of Smithkline Beecham Corporation, 900 River Road, Mail Stop L-11, Conshohocken, Pennsylvania 19428, made application to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Schedule
4-Methoxyamphetamine (7411)	I
Amphetamine (1100)	II
Phenylacetone (8501)	II

Any other such applicant and any person who is presently registered with DEA to manufacture such substances may file comments or objections to the issuance of the bove application and may also file a written request for a hearing thereon in accordance with 21 CFR 1301.54 and in the form prescribed by 21 CFR 1316.47.

Any such comments, objections, or requests for a hearing may be addressed to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, DC 20537, Attention: DEA Federal Register Representative (CCR), and must be filed no later than July 22, 1992.

Dated: June 11, 1992.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 92-14544 Filed 6-19-92; 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 July 2, 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 July 2, 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 8th day of June 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
Chevron E & P Services Co. (Wkrs)	Houston, TX	6/8/92	5/28/92	27,344	Oil and Gas.
Chevron E & P, Technical Services (Wkrs)	Houston, TX	6/8/92	5/28/92	27,345	Oil and Gas.
Chevron E & P, Eastern Support (Wkrs)	New Orleans, LA	6/8/92	5/28/92	27,346	Oil and Gas.
Chevron E & P, Western Support (Wkrs)	San Ramon, CA	6/8/92	5/28/92	27,347	Oil and Gas.

APPENDIX—Continued

Petitioner (union/workers/firm)	Location	Date received	Date of petition	Petition No.	Articles produced
Chevron E & P, Seismic Crew (Wkrs)	Houston, TX	6/8/92	5/28/92	27,348	Oil and Gas.
Lewis Casing Crews, Inc. (Wkrs)	Odessa, TX	6/8/92	5/26/92	27,349	Casing Crews.
Western Company (Co)	Houston, TX	6/8/92	5/27/92	27,350	Oilwell Services.
New York Rail Car Corp. (Wkrs)	Brooklyn, New York	6/8/92	6/29/92	27,351	Subway Cars.
Goodyear Tire & Rubber Co. (URW)	Madisonville, KY	6/8/92	5/28/92	27,352	Tires.
Morrilton Pipstic Products, Inc. (Wkrs)	Morrilton, AR	6/8/92	5/26/92	27,353	Automotive Parts.
Flournoy Drilling Co. (Co)	Alice, Texas	6/8/92	5/29/92	27,354	Oil and Gas Drilling.
Rowe International, Inc. (UAW)	Whippany, NJ	6/8/92	5/28/92	27,355	Vending Machines.
Silite, Inc. (Co)	Chicago, IL	6/8/92	3/26/92	27,356	Plastic Food Service Items.
Sterling Oil of Oklahoma, Inc. (Wkrs)	Tulsa, OK	6/8/92	5/26/92	27,357	Exploration, Drilling of Oil, Gas.
Sonat Exploration Co. (Co)	Houston, TX	6/8/92	5/27/92	27,358	Oil, Gas Exploration, Production.
Mobil Natural Gas, Inc. (Wkrs)	Houston, TX	6/8/92	5/26/92	27,359	Natural Gas.
Anschutz Corporation (Co)	Houston, TX	6/8/92	5/28/92	27,360	Oil, Gas Exploration, Production.
Anschutz Corporation (Co)	Midland, TX	6/8/92	5/28/92	27,361	Oil, Gas Exploration, Production.
Anschutz Corporation (Co)	Oklahoma City, OK	6/8/92	5/28/92	27,362	Oil, Gas Exploration, Production.
Halliburton Services, Flex Crew (Wkrs)	Duncan, OK	6/8/92	6/8/92	27,363	Oil and Gas.
D L Knitting Co., Inc. (ILGWU)	North Arlington, NJ	6/8/92	5/27/92	27,364	Fabric for Outerwear.
Keystone Franklin, Inc. (Wkrs)	Ft. Washington, PA	6/8/92	5/31/92	27,365	Packaging Household Products.
Forest Oil Corp.(Wkrs)	Lafayette, LA	6/8/92	5/31/92	27,366	Oil, Gas Exploration, Production.

Pension and Welfare Benefits Administration

[Prohibited Transaction Exemption 92-47; Exemption Application No. D-8858, et al.]

Grant of Individual Exemptions; Hi-Tech Communications Defined Benefit Trust

AGENCY: Pension and Welfare Benefits Administration, Labor.

ACTION: Grant of Individual Exemptions.

SUMMARY: This document contains exemptions issued by the Department of Labor (the Department) from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1986 (the Code).

Notices were published in the **Federal Register** of the pendency before the Department of proposals to grant such exemptions. The notices set forth a summary of facts and representations contained in each application for exemption and referred interested persons to the respective applications for a complete statement of the facts and representations. The applications have been available for public inspection at the Department in Washington, DC. The notices also invited interested persons to submit comments on the requested exemptions to the Department. In addition the notices stated that any interested person might submit a written request that a public hearing be held (where appropriate). The applicants have represented that they have complied with the requirements of the notification to interested persons. No public comments and no requests for a hearing, unless otherwise stated, were received by the Department.

The notices of proposed exemption were issued and the exemptions are being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

Statutory Findings

In accordance with section 408(a) of the Act and/or section 4975(c)(2) of the Code and the procedures set forth in 29 CFR part 2570, subpart B (55 FR 32836, 32847, August 10, 1990) and based upon the entire record, the Department makes the following findings:

(a) The exemptions are administratively feasible;

(b) They are in the interests of the plans and their participants and beneficiaries; and

(c) They are protective of the rights of the participants and beneficiaries of the plans.

Hi-Tech Communications Defined Benefit Trust Located in Dickinson, Texas [Prohibited Transaction Exemption 92-47; Exemption Application No. D-8858]

Exemption

The restrictions of section 406(a), 406(b)(1) and 406(b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the cash sale, for not less than $79,000 of certain real property (the Property) by the Hi-Tech Defined Benefit Trust (the Plan) to Hi-Tech Communications, Inc., the employer and sponsor of the Plan, provided that: (a) the sales price of the Property will be based on an appraisal performed by an independent, qualified appraiser; (b) the terms of the sale will permit the Plan to receive cash in the amount of $79,000, or the fair market value at the time of the sale, whichever is higher; and (c) the Plan will incur no real estate commissions or fees in connection with the sale.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on March 11, 1992 at 57 FR 8687.

FOR FURTHER INFORMATION CONTACT: Ms. Jean Anderson of the Department, telephone (202) 532-8971. (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified persons from certain other provisions to which the exemptions does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the

employees of the employer maintaining the plan and their beneficiaries;

(2) These exemptions are supplemental to and not in derogation of, any other provisions of the Act and/or the Code including statutory or administrative exemptions and transactional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction; and

(3) The availability of these exemptions is subject to the express condition that the material facts and representations contained in each application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, DC., this 17th day of June, 1992.

Ivan Strasfeld,

Director of Exemption Determinations, Pension and Welfare Benefits, Administration, Department of Labor.

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[Application No. D-8914, et al.]

Proposed Exemptions; Public Super Markets, Inc. et al.

AGENCY: Pension and Welfare Benefits Administration, Labor.

ACTION: Notice of proposed exemptions.

SUMMARY: This document contains notices of pendency before the Department of Labor (the Department) of proposed exemptions from certain of the prohibited transaction restriction of the Employee Retirement income Security Act of 1974 (the Act) an/or the Internal Revenue Code of 1986 (the Code).

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or request for a hearing on the pending exemptions, unless otherwise stated in the Notice of Proposed Exemption, within 45 days from the date of publication of this **Federal Register** Notice. Comments and request for a hearing should state: (1) The name, address, and telephone number of the person making the comment or request, and (2) the nature of the person's interest in the exemption and the manner in which the person would be adversely affected by the exemption. A request for a hearing must also state the issues to be addressed and include a general description of the evidence to be presented at the hearing. A request for a hearing must also state the issues to be addressed and include a general description of the evidence to be presented at the hearing.

ADDRESSES: All written comments and request for a hearing (at least three copies) should be sent to the Pension and Welfare Benefits Administration, Office of Exemption Determinations, room N-5649, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210. Attention: Application No. stated in each Notice of Proposed Exemption. The applications for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefits Administration, U.S. Department of Labor, room N-5507, 200 Constitution Avenue, NW., Washington, DC 20210.

Notice to Interested Persons

Notice of the proposed exemptions will be provided to all interested persons in the manner agreed upon by the applicant and the Department within 15 days of the date of publication in the **Federal Register.** Such notice shall include a copy of the notice of proposed exemption as published in the **Federal Register** and shall inform interested persons of their right to comment and to request a hearing (where appropriate).

SUPPLEMENTARY INFORMATION: The proposed exemptions were requested in applications filed pursuant to section 408(a) of the Act and/or section 4975(c)(2) of the Code, and in accordance with procedures set forth in 29 CFR part 2570, subpart B (55 FR 32836, 32847, August 10, 1990). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, these notices of proposed exemption are issued solely by the Department.

The applications contain representations with regard to the proposed exemptions which are summarized below. Interested persons are referred to the applications on file with the Department for a complete statement of the facts and representations.

Public Super Markets, Inc. Profit Sharing Plan (the Plan) Located in Lakeland, Florida [Application No. D-8914]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in 29 CFR part 2570, subpart B (55 FR 32836, 32847, August 10, 1990). If the exemption is granted, the restrictions of sections 406(a), 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to the proposed cash sale by the Plan to Public Super Markets, Inc. (Publix), a party in interest with respect to the Plan, of four parcels of real property (the Properties), and the assignment to Publix by the Plan of a leasehold interest in a parcel that adjoins one of the Properties, provided the following conditions are satisfied: (1) The sale is a one-time transaction for cash; (2) the Plan pays no fees or commissions in connection with the sale; (3) the Plan will receive no less than the fair market value of the Properties as determined by a qualified, independent appraiser; and (4) the Plan's trustee has determined that the proposed transaction is appropriate for the Plan and in the best interests of the Plan's participants and beneficiaries.

Summary of Facts and Representations

1. Publix, a Florida corporation engaged in the retail grocery business in Florida and Georgia, has sponsored the Plan since 1951. The Plan has also been adopted by two corporations affiliated with the employer, Publix Market, Inc. and Publix Food Stores, Inc. The Plan is a defined contribution plan which had 46,066 active participants as of September 30, 1990. As of that date, the Plan had total assets with a fair market value of $403,785,754. Mr. John A. Turner (Mr. Turner), who currently serves as a member of the Board of Directors of Publix, was the trustee of the Plan from October 1, 1974 until March 1, 1992, when he resigned. Mr. Turner was replaced as Plan trustee by Mr. Hoyt R. Barnett.

2. The Plan owns eleven parcels of real property in Florida and proposes to sell four of them to Publix. The Plan has been attempting to sell the other seven parcels (the Non-Subject Parcels) to unrelated parties (see rep. 6, below). The Properties are described as follows:

(a) Wabash Shopping Center Property

The Wabash Shopping Center Property (Wabash) is a 370,260 square foot parcel of land located in Lakeland, Florida. Wabash includes a shopping center with 65,045 square feet of total leasable area and one ground leased site, constituting 22,500 square feet. The Plan leases 36,100 square feet of Wabash to Publix. The Plan purchased

Wabash from Publix on December 11, 1972, for $1,085,574, which the applicant represents was no more than adequate consideration at the time of the Plan's Acquisition. The applicant represents that the acquisition preceded the effective date of the Act, but that it met the requirements of section 503 of the Code, which governed such transactions at that time.

(b) Altamonte Springs Property

The Altamonte Springs Property (Altamonte) is a 12.62 acre parcel of improved real estate located in Altamonte Springs, Florida. Altamonte has 103,412 square feet of total leasable area. The Plan leases 34,400 square feet of Altamonte to Publix. The Plan purchased Altamonte from Publix on August 28, 1974 for $1,131,914, which the applicant represents was no more than adequate consideration at the time of the Plan's acquisition. The purchase preceded the effective date of the Act, and the applicant represents that the purchase met the requirements of section 503 of the Code, which governed such transactions at that time.[1]

(c) Gandy Boulevard Property

The Gandy Boulevard Property (Gandy) is a 13,250 square foot parcel consisting of two retail stores, located in Tampa, Florida. Gandy is leased to tenants who are unrelated to the Plan or Publix. The Plan acquired Gandy from unrelated parties, Mr. and Mrs. Charles Larson, Jr., on July 1, 1961, for $62,861.

(d) Northeast Shopping Center Property

The Northeast Shopping Center Property (Northeast) is a 17.27 acre parcel of property located in St. Petersburg, Florida. Northeast includes a main shopping center and four ground leased sites, with 168,055 square feet of total leasable area. The Plan leases Northeast from an unrelated party, the Citizens and Southern National Bank of Florida, formerly Union Trust Company. The Plan subleases 40,280 square feet of Northeast to Publix. The applicant represents that the Plan acquired its leasehold interest from Publix on May 31, 1958, for not more than adequate consideration. The transfer of the leasehold interest to the Plan preceded the effective date of the Act, but the applicant represents that the transfer met the requirements of section 503 of the Code.[2] The Plan's lease will expire on December 31, 2007, at which time all land and improvements will return to the lessor.

The Plan's interest in Northeast also includes a fee interest in one of the ground leased sites, a 36,576 square foot parcel. This site is currently leased to a McDonald's restaurant. The Plan acquired its interest from the estate of Frank W. Crisp, Mary A. Crisp and Crisp Realty Co., unrelated parties, on April 18, 1968. The plan paid $2,430,416.

3. The applicant represents that the portions of Wabash, Altamonte and Northeast which are leased by the Plan to Publix constitute qualifying employer real property within the meaning of section 407(d)(4) of the Act. Mr. Turner has represented that these described leases, together with all amendments and addendums thereto, did not involve the payment of commissions and were entered into for adequate consideration. Thus, Mr. Turner represents that the leasing of portions of Wabash, Altamonte and Northeast by the Plan to Publix is and has been statutorily exempt under section 408(e) of the Act.[3]

4. The properties have all been appraised by Mr. Levie D. Smith, Jr., MAI, an independent real estate appraiser in Lakeland, Florida. Mr. Smith has determined that, as of September 30, 1991, Wabash had a fair market value of $2,200,000, Altamonte had a fair market value of $2,170,000, Gandy had a fair market value of $142,000, and Northeast had a fair market value of $4,300,000.

5. The applicant represents that the Plan wishes to sell the Properties in order to divest itself of assets that are generally depreciating in value and that may continue to decrease in value in Florida's depressed real estate market. Selling the four Properties to Publix at this time will enable the Plan to convert illiquid real estate investments into more prudent, profitable and liquid investments. The proposed sale will be in a one-time transaction for cash at a price which the applicant represents the Plan could not currently demand from an independent third party under the same terms. The applicant represents that because of the current depressed state of the commercial real estate market, the Plan could not at this time convey the Properties to independent parties other than at a substantial discount.

6. Publix proposes to purchase the Properties from the Plan at fair market value as determined by Mr. Smith, a qualified, independent appraiser. The Plan will pay no real estate commissions in connection with the sale. All costs of the transaction will be borne by Publix. Furthermore, Publix proposes to purchase the Properties "as is", and no environmental guarantees will be required from the Plan. The applicant represents that with respect to the Non-Subject Parcels (see rep. 2, above), potential unrelated purchasers have required engineering and environmental studies which will ultimately result in substantial clean-up expenditures.

7. In summary, the applicant represents that the proposed transaction satisfies the criteria of section 408(a) of the Act because: (a) The sale of the Properties will be a one-time transaction for cash; (b) the Plan will pay no fees or commissions in connection with the transaction; (c) the Plan will divest itself of assets that are generally depreciating in value and convert them into more profitable, liquid investments; (d) the sales price for the Properties will be their fair market value as determined by a qualified, independent appraiser; and (e) the Plan's trustee has determined that the proposed transaction is appropriate for the Plan and in the best interests of its participants and beneficiaries.

FOR FURTHER INFORMATION CONTACT: Gary H. Lefkowitz of the Department, telephone (202) 523-8881. (This is not a toll-free number.)

Panhandle Eastern Corporation Retired Employee and Dependent Life Insurance Plan (the Retiree Life Plan), Panhandle Eastern Corporation Active Employee and Dependent Life Insurance Plan (the Active Life Plan), Panhandle Eastern Corporation Permanent and Total Disability Plan (the Disability Plan), Panhandle Eastern Corporation Medical Plan (the Medical Plan) and Panhandle Eastern Corporation Dental Plan (the Dental Plan; collectively, the Plans).

Located in Kansas City, MO.

[1] In this proposed exemption, the Department expresses no opinion as to whether the Plan's acquisitions of Wabash and Altamonte satisfied the requirements of section 503 of the Code. In addition, the Department is expressing no opinion herein as to whether the Plan's continued holding of any of the Properties satisfied the requirement of section 404 of the Act which requires, among other things, that a Plan's fiduciary act with the care, skill, prudence and diligence under the circumstances then prevailing that a prudent man acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims.

[2] The Department expresses no opinion as to whether the Plan's acquisition of the leasehold interest met the requirements of section 503 of the Code, nor does the Department express any opinion herein as to whether the Plan's continued holding of the leasehold interest satisfied the requirements of section 404 of the Act.

[3] In this proposed exemption, the Department expresses no opinion as to whether the portions of the Properties leased by the Plan to Publix constitute qualifying employer real property within the meaning of section 407(d)(4) of the Act, nor does the Department express an opinion as to whether the leases are and have been statutorily exempt under section 408(e) of the Act.

[Application Nos. L-8771, L-8772, L-8773 and L-8774]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and in accordance with the procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32836, 32847, August 10, 1990). If the exemption is granted, the restrictions of sections 406(a), 406 (b)(1) and (b)(2) of the Act shall not apply to the proposed cash sale of certain improved real property (the South Building) by the Panhandle Eastern Corporation Employee Benefit Trust (the VEBA), which maintains the assets of the Plans, to Panhandle Eastern Pipe Line Company (PEPL), a party in interest with respect to the Plans, provided the following conditions are satisfied: (1) the amount paid for the South Building is not less than the greater of $7,565,000 or the fair market value of such property at the time the transaction is consummated, (2) the VEBA does not pay any real estate fees or commissions in connection with the transaction and (3) the independent fiduciary, who has made an initial determination that the proposed sale is an appropriate transaction for the VEBA, monitors its terms on behalf of the VEBA.[4]

Summary of Facts and Representations

1. PEPL is a wholly-owned subsidiary of Panhandle Eastern Corporation (Panhandle). Through PEPL and its other subsidiaries, Panhandle is principally engaged in the interstate transmission and sale of natural gas and liquid petroleum products. The executive offices of Panhandle and PEPL are located at 5400 Westheimer Court, Houston, Texas.

2. The VEBA, which became effective as of January 1, 1979, was formed for the purpose of funding certain welfare plans that are sponsored by Panhandle and its subsidiaries. Currently, five welfare plans are funded through the VEBA. These plans are the Retiree Life Plan, the Active Life Plan, the Disability Plan, the Medical Plan and the Dental Plan.[5] As of November 30, 1991, the Plans had participants ranging in number from 4,817 participants to 11,282 participants. Also as of November 30, 1991, the VEBA had total assets of $61,001,000. The remaining assets of the VEBA are invested in a single commingled fund and each Plan is allocated a pro rata portion of the net income (or loss) of the VEBA for each period based on the ratio of the value of the assets of such Plan to the value of the total assets of the VEBA.

3. Commerce Bank of Kansas City, N.A. (Commerce), the trustee of the VEBA, is a national corporation engaged in commercial and trust banking in Missouri. Commerce is one of Kansas City's oldest and largest banks, having served the Midwest for over 100 years. It has operated a trust division for over 75 years that is staffed by personnel who have had experience in administering a wide variety of employee benefit programs and providing investment management services to plans. Commerce is the largest of 38 associated banks that are owned by Commerce Bancshares, Inc., a registered multibank holding company. This group of Missouri banks had assets in excess of $3 billion as of July 1991.

4. Among the assets of the VEBA is certain unencumbered real property consisting of a 127,706 square foot tract of land on which is situated a five-story single tenant office building, a cafeteria and a parking lot containing a total of 348 parking spaces. The South Building is located at 3444 Broadway Avenue and it is one of three buildings that previously served as the corporate headquarters of PEPL.[6] The VEBA acquired the South Building from PEPL on August 1, 1984 pursuant to the terms and conditions of Prohibited Transaction Exemption (PTE) 84-104) (49 FR 28944, July 17, 1984) for the total cash consideration of $5,509,878.[7] Contemporaneously with its acquisition of such property, the VEBA, as, permitted by PTE 84-104, commenced leasing the South Building to PEPL for an initial annual rental of $1,734,000, under the terms of a written lease (the Lease) having a thirty year duration. The Lease provides that at the end of each three year period, an independent appraisal of the South Building must be performed to determine the annual rent for the next three years. The Lease also requires that PEPL pay all maintenance costs, insurance premiums and taxes that are assessed against the South Building over its 30 year duration. According to the applicants, PEPL has always paid rentals under the Lease in a timely manner and it has never defaulted on or been delinquent in making such payments. At present, PEPL pays the VEBA a monthly rental of $75,833.[8]

5. In accordance with the terms of the Lease, and as further authorized under PTE 84-104, PEPL is permitted to repurchase the South Building from the VEBA for cash. In this regard, section 21 of the Lease grants PEPL the right to purchase such property for cash at the end of the term of the Lease. In addition, section 22 of the Lease grants PEPL the right of first refusal to meet any bona fide offer of sale on the same terms and conditions of such offer. The transactions described in PTE 84-104 have been monitored by Commerce, which, in addition to being the VEBA trustee, has served as the independent fiduciary to the VEBA.

6. Since the Fall of 1988, the South Building and the adjacent North and Center Buildings have remained vacant as the result of PEPL's move to Houston, Texas. PEPL has, however, continued to pay all rentals due under its Lease of the South Building in a timely manner and

[4] Because the VEBA is not qualified under section 401 of the Code, there is no jurisdiction under Title II of the Act pursuant to section 4975 of the Code. However, there is jurisdiction under Title I of the Act pursuant to section 3(1) of the Act.

[5] Effective January 1, 1991, the Texas Eastern Corporation Long Term Disability Plan and the Petrolane Long Term Disability Plan, which were sponsored by affiliates of Panhandle, were merged into the Disability Plan. Similarly, effective January 1, 1991, the Dixilyn Disability Plan and the Dixilyn Retiree Life Plan were also merged into the Disability Plan and the Active Life Plan.

[6] The two other properties comprising the "Broadway Corporate Campus" are the Center Building, located at 3430 Broadway and the North Building, located at 3420 Broadway. The South Building, the Center Building and the North Building are collectively referred to herein as the Properties.

[7] On September 1, 1983, Severeid and Associates (Severeid), independent real estate appraisers and investment consultants in Kansas City, Missouri, placed the fair market value of the South Building at $8,150,000 and its fair market rental value at $1,062,000. The VEBA's acquisition price from PEPL of $5,509,878 was less than the appraised value because it represented the amount PEPL paid to Kansas City Life Insurance Company (KC Life), the owner of the South Building, under the terms of an option to purchase contained in PEPL's lease with KC Life. In effect, PEPL passed on to the VEBA the same option price it had agreed to pay KC Life so that the VEBA might earn a higher rate of return on its investment.

[8] In accordance with this provision, the fair market rental value of the South Building was determined by Severeid, the independent appraiser cited in PTE 84-104, for the years 1984 and 1987 and by Mr. James E. Summers, ASA, SRA, MAI, an independent appraiser affiliated with Bliss Associates, Inc., of Kansas City, Missouri for the year 1990. Because the Lease is a "net" lease, the applicants represent that the appraisers compared net leases of similar properties. The applicants also state that Severeid examined multi-tenant buildings and then adjusted the rentals downward to reflect the "net" aspects of the Lease. After adjustment and analyzing the rental range, the applicants explain that the appraisers adopted a maximum rental value that the South Building could command on a net lease basis. Thus, for the period August 1, 1987 through July 31, 1990, Severeid calculated the fair market rental value of the South Building at $950,000 per year and for the period August 1, 1990 through July 31, 1993, Mr. Summers placed the fair market rental value of the South Building at $910,000 per year. The applicants note that the appraisals took into consideration the cost of a cafeteria and a training center that had been constructed on the subject property by PEPL as capital improvements.

to honor its obligations thereunder. In addition, during 1991, PEPL removed asbestos from the South Building at its own expense. However, the applicants explain that the value of the South Building has declined in recent years. The applicants attribute this fact to conclusions reached by independent appraisers of the property and to the softness of the Kansas City real estate market based upon the applicant's understanding of that market.[9] Therefore, the applicants note that the VEBA has been receiving lesser rental payments than it was receiving at the inception of the Lease and they anticipate that the rental payments will decline even further in the future. The applicants also note that the South Building's current lack of occupancy may cause its value to decrease even more in the future.

7. The applicants explain that shortly after PEPL moved to Houston, Texas, PEPL began an effort to market the South Building and the adjoining Center and North Buildings to unrelated parties. These marketing activities included (a) direct mail contact with Fortune 1,000 companies throughout the United States by Lioness Realty Group (Lioness) of Kansas City, Missouri of the Properties or a significant portion of them, (b) personal contact, by Lioness, with every company in the Greater Kansas City Metropolitan area which every company in the Greater Kansas City Metropolitan Area which could utilize space in any of the buildings, (c) a cooperative brokerage effort that included tours, mailings and seminars, (d) advertisements appearing in print publications serving office facilities planning and the development and relocation industry, (e) advertisements appearing in The Wall Street Journal (both domestically and in the Asian Edition), the Kansas City Star and in trade publications such as the Kansas City Business Journal, Corporate Leasing Guide and the Convention Issue of the Corporate Real Estate Executive. The applicants represent that PEPL's marketing attempts emphasized that the South Building could be sold individually, as part of a package with the Center and North Buildings, or even leased.[10] However, the applicants note that these efforts have not produced any concrete offers despite PEPL's expenditure of more than $250,000 in marketing costs, inclusion of the Properties in the Kansas City, Missouri Enterprise Zone to reduce real estate and state corporate taxes and clearing the Properties' interiors of asbestos.

8. Because there has been no bona fide third party offer to purchase the South Building, which is a precondition under PTE 84–104 to a sale of such property to PEPL, the applicants believe that PTE 84–104 is unavailable with respect to the future sale transaction. Therefore, the applicants request an administrative exemption which would permit the VEBA to sell the South Building to PEPL. The applicants explain that the proposed sale would allow PEPL to package the South Building along with the Center and North Buildings and facilitate, through common ownership of all three Properties, a future third-Party purchase. In addition, the applicants state that the proposed sale would allow the VEBA to achieve greater liquidity with respect to its investment portfolio, increase the diversification of its investments, and stabilize the potential rate of return of its assets.

9. As in prior appraisals, the fair market value of the South Building has again been determined by Messrs. Summers, Cato and Siemens. Another independent appraiser, Mr. James Flanagan, MAI of Kansas City, Missouri has been utilized to review the value opinions rendered by the other appraisers.

In an appraisal report dated September 14, 1990, Mr. Summers placed the fair market value of the South Building, as of August 8, 1990, at $5,250,000 under the assumption that PEPL had not removed asbestos from the property and $7,220,000 if PEPL had cured the asbestos problem. In an updated appraisal report of April 19, 1991, Mr. Summers noted that because PEPL had removed asbestos from the South Building, the fair market value of such property would be $7,565,000 as of April 17, 1991 or $5,600,000 if this problem had not been remedied. Mr. Summers also represented that there were no other sale or lease data that would alter the conclusions that he had reached in his appraisal report of 1990.

As of July 25, 1990, Messrs. Cato and Siemens placed the fair market value of the South Building at $5,400,000 or $7,310,000 assuming that PePL had cured the asbestos problem. In an April 8, 1991 update to their original appraisal report, Messrs. Cato and Siemens concluded that the fair market value of the South Building had remained unchanged as of April 5, 1991.

Messrs. Cato and Siemens also concluded in an October 31, 1991 addendum to their updated appraisal, that the South Building would have no unique or special value to PEPL by reason of its proximity to two other properties that are owned by PEPL. Therefore, they concluded that the appraised value of the South Building would remain unchanged.

In a letter dated June 11, 1991, Mr. Flanagan, the review appraiser, stated that he had examined the original appraisal reports of the South Building that had been prepared by the other appraisers including their updates. In reconciling the appraisals, Mr. Flanagan concluded that the fair market value of a leased fee interest [11] in the South Building was $7,346,000 as of June 11, 1991. Mr. Flanagan also asserted, in a letter of November 6, 1991, that the proximity of the South Building to the Center and North Buildings would lend no unique or special value to the South Building to warrant PEPL's payment of a higher purchase price to the VEBA than the one contemplated.

10. Notwithstanding Mr. Flanagan's review of the other appraisals and his opinion of what the fair market value of the South Building should be, the applicants have agreed to increase the sales price of such property. Therefore,

[9] In this regard, on August 6, 1990, Messrs. Jerrold A. Cato, MAI, Review Appraiser and W. Webb Siemens, Senior Appraiser, independent appraisers associated with Kevin K. Nunnink and Associates, Inc. of Kansas City, Missouri, noted that although the occupancy rate for office space in Midtown Kansas City was approximately 84 percent, the South Building was unique and designed for a single tenant and could, therefore, not be categorized with multi-tenant properties. In the opinion of these appraisers, the highest and best use of the South Building was for its continued utilization as a single tenant office building.

Messrs. Cato and Siemens also concluded that the market for single tenant properties such as the South Building was "overbuilt" since two single tenant office buildings that were within the vicinity of the South Building had remained vacant for more than two years while a third, similarly vacant building had taken over two years to be sold. The appraisers further noted that it was difficult to lease renovated office space in Kansas City Metropolitan Area.

[10] According to the applicants, PEPL's marketing attempts were focused initially toward selling the Properties based upon the theory that most single-tenant buildings such as the South Building were owner-occupied and that existing leases could inhibit future sales. However, since mid-1991, the applicants explain that PEPL has expended considerable time and expense in advertising the Properties as being available for lease for a present rental amount of $4 per square foot which is $1 per square foot less than PEPL is paying to the VEBA.

[11] According to Mr. Flanagan, in the APPRAISAL OF REAL ESTATE 398–99 (4th ed. 1964), published by the American Institute of Real Estate Appraisers, the term "leased fee" includes a "leased fee estate" and a "leasehold estate." A "leased fee estate" consists of the right to receive the contract rent provided by the lease, the revision of the property at the end of the lease, plus any other benefits less any penalties according to the provisions of the lease. The "leasehold estate" consist of the use and occupancy of the property, the value of which arises from the margin of the economic productivity, subject to meeting the terms and provisions of the lease.

the VEBA will sell the South Building to PEPL for an amount representing the greater of $7,565,000, which reflects the independently appraised value of the South Building as determined by Mr. Summers, or the fair market value of this property on the date of the sale [12] consideration will be paid in cash and the VEBA will not be required to pay any real estate fees or commissions in connection therewith. To evidence the sale, the parties will enter into an Agreement for the Sale and Purchase of Real Estate.

11. As stated above, in connection with the original purchase of the South Building by the VEBA, Commerce has been retained to monitor the terms of the Lease, the independent appraisals required under the Lease and the management decisions with respect to the maintenance, repair and alteration of the South Building. Commerce has also been retained by the VEBA, Panhandle and PEPL to serve as the independent fiduciary with regard to the proposed transaction and it has entered into an Independent Fiduciary Agreement.

Commerce represents that in addition to serving as the trustee of the VEBA, it serves as trustee or custodian for more than 2,000 accounts with total assets that are in excess of $2 billion, of which 500 are employee benefit plan accounts that are covered by the Act. Commerce also states that while it is not related to, or affiliated with, Panhandle, PEPL or any of their affiliates, the only commercial relationships it has with Panhandle are a "Lock Box" account that PEPL maintains with it in order to receive checks for irrigation wells and farm taps and a "Sight Draft" account for Rights of Way. Commerce explains that these accounts represent less than 0.1 percent of its total deposits. Commerce further asserts that it understands and acknowledges the duties, responsibilities and liabilities in acting as a fiduciary with respect to the VEBA.

Commerce represents that the proposed transaction is in the best interests of the VEBA and its participants and beneficiaries. As the independent fiduciary, Commerce states that it has reviewed the terms of the purchase offer and it believes the purchase price is fair and equitable from a financial point of view and that it will ensure that benefits continue to participants and beneficiaries of the VEBA. Among the issues Commerce explains that it considered in reviewing the offer were the following: (a) The timeliness of the Lease payments, (b) the attempts by PEPL to market the South Building, (c) the soft commercial real estate market in Kansas City, Missouri, (d) the illiquidity of the South Building and (e) the fact that a condition of PTE 84–104 (as embodied in the Lease) which grants PEPL right of first refusal to match any valid third party offer could not be satisfied. Further, based upon the above factors, the purpose of the VEBA, its required funding and benefit levels, the fact that the South Building is vacant and that rents continue to show a history of decline, Commerce asserts that the proposed sale represents an opportunity for the VEBA to liquidate an otherwise illiquid asset at its current market value.

Before forming its opinion that the sale is an appropriate transaction for the VEBA, Commerce indicates that it has examined the VEBA's overall investment portfolio, considered the liquidity requirements of the VEBA, examined the diversification of the VEBA's assets in light of the proposed transaction and considered whether the proposed transaction complies with the VEBA's investment objectives and policies. As the independent fiduciary, Commerce agrees to monitor the proposed transaction on behalf of the VEBA.

12. In summary, it is represented that the proposed transaction will satisfy the statutory conditions for an exemption under section 408(a) of the Act because: (a) The sale of the South Building will be a one-time transaction for cash for the greater of the $7,565,000 or the fair market value of the property on the date of the sale; (b) the sales price for the South Building has been based upon its independently appraised value; (c) the VEBA will not only pay any real estate fees or commissions in connection therewith; (d) the sale will allow the VEBA to divest itself of an illiquid investment; and (e) Commerce, as independent fiduciary, has approved of the proposal sale and will monitor its terms on behalf of the VEBA.

Notice To Interested Persons

Notice of the proposed exemption will be provided to all interested persons within 45 days of the date of publication of the notice of pendency in the **Federal Register**. The notice will include a copy of the notice of proposed exemption as published in the **Federal Register** and a statement informing interested persons of their right to comment on and/or to request a hearing with respect thereto. The notice will be provided to active participants and retirees in the VEBA through Pipelines, a bimonthly publication. Comments to the Department are due within 45 days of the publication of this notice of proposed exemption in Pipelines.

FOR FURTHER INFORMATION CONTACT: Ms. Jan D. Broady of the Department, telephone (202) 523–8881. (This is not a toll-free number.)

Sun Bancorp, Inc. Retirement Plan (the Plan) Located in Selinsgrove, Pennsylvania [Application No. D–9005 & D–9006]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in 29 CFR part 2570, subpart B (55 FR 32836, 32847, August 10, 1990). If the exemption is granted the restrictions of sections 406(a), 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply, effective May 28, 1992, to the cash sale by the Plan of a group annuity contract (the GAC) to Sun Bancorp, Inc. (SBI), a party in interest with respect to the Plan; provided that (1) the sale was a one-time transaction for cash, (2) the Plan received a purchase price for the GAC of no less than its fair market value as of the date of the sale, and (3) the Plan did not incur any costs or expenses related to the sale.

EFFECTIVE DATE: This exemption, if granted, shall be effective as of May 28, 1992.

Summary of Facts and Representations

1. The Plan is a defined benefit pension plan with 120 participants and total assets of $1,538,727.51 as of December 31, 1991. The Plan was originated in 1944 by the Snyder County Trust Company (the Trust Co.) in Selinsgrove, Pennsylvania. In 1982, the Trust Co. formed SBI, a bank holding company which acquired the Trust Co. on June 13, 1983. After SBI later acquired the Watsontown National Bank (the Bank) in Watsontown, Pennsylvania, the defined benefit plans of the Trust Co. and the Bank were combined on January 1, 1989, resulting in the Plan. Investment decisions with respect to Plan assets are made by the Plan's administration

[12] The applicants represent that Mr. Flannagan will again be retained to review such information from one of the appraisers of the Property prior to the closing date of the sale in order to ascertain whether there has been any change in the fair market value that may warrant a change in the purchase price. In addition, Mr. Flanagan will be requested by the applicants to state that either the fair market value of the Property has not changed or set forth the increased purchase price.

committee (the Committee), comprised of one officer of SBI and two officers of the Trust Co. The Trust Co. also serves as trustee of the Plan.

2. The Committee represents that during 1989, the Trust Co. and the Bank determined that continued maintenance and sponsorship of the Plan was too costly, and that the Plan would be terminated. As a replacement for the Plan a new defined contribution plan was established effective January 1, 1990, for the benefit of employees of the Trust Co. and the Bank. Plan participants were notified on May 30, 1990 of the intent to terminate the Plan, and the Plan was terminated effective July 31, 1990. The Plan termination has been approved by the International Revenue Service (the IRS) in a letter dated September 20, 1991 from the district director of the IRS in Baltimore, Maryland. The Committee filed notice of the Plan termination with the Pension Benefit Guaranty Corporation (PBGC) on March 28, 1991. The Committee represents that PBGC advised that complete distribution of Plan benefits and assets was required by May 28, 1992, in order to preserve the July 31, 1990 effective termination date. The Committee has proceeded with liquidation of Plan assets and distribution of Plan benefits to participants. The Committee represents that at the time of the termination, the value of the Plan's assets exceeded the Plan's liabilities. Plan participants are given a choice of two methods of receiving their benefits from the terminating Plan, and each participant had to elect to receive such benefits in the form of (a) a lump-sum distribution, for "rollover" to the New Plan, or (b) an annuity.

3. Among the assets in the Plan upon its termination was the GAC, a single premium group annuity contract purchased by the Committee from Executive Life on January 1, 1986. The Committee purchased the GAC for $384,907.65 to cover the Plan's past service liabilities. The Committee represents that liquidation of the GAC by May 28, 1992 was necessary to complete the distribution of Plan assets by that date. In order to obtain sufficient cash to enable the "rollover" distributions and the purchase of new annuity contracts for those participants so electing, the Committee directed the cash surrender of the GAC on March 12, 1991. On April 12, 1991, prior to any payment to the Plan by Executive Life pursuant to the Committee's surrender of the GAC, Executive Life was placed in conservatorship by the California Insurance Commissioner (the Commissioner).[13] The Commissioner is proceeding with a plan of rehabilitation (the Rehab Plan) of Executive Life which remained only as a proposal, and had not been approved, as of May 28, 1992. As a consequence of the conservatorship and the Rehab Plan, the Committee represents that Executive Life assets are frozen and that Executive Life has been prevented from paying the Plan the cash representing the GAC's surrender value, pursuant to the Committee's request. The Committee represents that its application of February 20, 1992 to Executive Life for a hardship withdrawal payment of the GAC's cash surrender value has been denied. In order to enable the Plan to accomplish complete discharge of Plan benefit obligations and distribution of asset by the deadline of May 28, 1992, the Trust Co. and the Bank (the Employers) arranged for the GAC to be purchased from the Plan by SBI on May 28, 1992.[14] The Employers and SBI are requesting an exemption for SBI's purchase of the GAC from the Plan, under the terms and conditions described herein.

4. SBI purchased the GAC from the Plan by paying the Plan cash in an amount determined to be not less than the GAC's cash surrender value as of the date of purchase. The Committee directed an appraisal of the GAC for its fair market value, by John G. Hopkins, IV, CPA, RIA (Hopkins). Hopkins, who is executive vice president of Pension Consultants, Inc. in Harrisburg, Pennsylvania represents that he is independent of and unrelated to the SBI, except as a provider of services to the Plan. Hopkins represents that as of May 28, 1992 the actual value of the GAC was not determinable, under the prevailing circumstances surrounding the conservatorship. However, he states that he was able to determine the approximate value of the GAC as of May 28, 1992, by referring to proposed details of the developing, but unapproved, Rehab Plan. According to Hopkins' calculations, based on the proposed Rehab Plan's figures relative to Executive Life's outstanding contractual obligations, the GAC had an approximate value of $255,045.84 as of May 28, 1992.

Pursuant to Hopkins' appraisal, SBI paid the Plan $255,045 on May 28, 1992, and acquired the GAC from the Plan. The Committee represents that the additional funds necessary to complete the full distribution of Plan benefits on May 28, 1992, in the amount of $85,953.81, were paid into the Plan by the Employers as employer contributions to the Plan. The Plan did not incur any expenses with respect to the transaction. SBI represents that its purchase of the GAC from the Plan was necessary to complete the distribution of Plan benefits within the time established by PBGC, and to prevent hardship and further delay in the receipt by Plan participants of their benefits under the Plan. All participants received the full amount of the benefits due them under the Plan.

5. In summary, the applicants represent that the transaction satisfies the criteria of section 408(a) of the Act for the following reasons: (1) The Plan received cash for the GAC in the amount determined to be not less than the fair market value of the GAC as of the sale date; (2) The transaction enabled by the Committee to avoid any further delay in distributing the Plan benefits and to complete the Plan distribution within the limits established by PBGC; (3) The Plan did not incur any expenses with respect to the transaction; (4) The Committee determined that the Plan's sale of the GAC to SBI was in the best interests of the Participants and beneficiaries of the Plan; and (5) All participants received the full amount of the benefits due them under the plan.

FOR FURTHER INFORMATION CONTACT: Ronald Willett of the Department, telephone (202) 523-8881. (This is not a toll-free number.)

TJX Companies, Inc. Savings/Profit Sharing Plan, and TJX Companies, Inc. General Savings/Profit Sharing Plan (together, the Plans) Located in Framingham, Massachusetts [Application Nos. D-9040 & D-9041]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in 29 C.F.R. part 2570, subpart B (55 FR 32836, August 10, 1990). If the exemption is granted the restrictions of sections 406(a), 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply

[13] The Department notes that the Committee's decisions to acquire and hold the GAC are governed by the fiduciary responsibility requirements of Part 4, Subtitle B, Title I of the Act. In this regard, the Department herein is not proposing relief for any violations of Part 4 which may have arisen as a result of the Acquisition and holding of the GAC.

[14] The Committee represents that approval of the Plan's sale of the GAC to SBI was required, and has been granted, by the Department of Banking of the Commonwealth of Pennsylvania.

to (1) interest-free loans (the Advances) to the Plans by The TJX Companies, Inc. (the Employer) with respect to guaranteed investment contracts number 1190 and number 1307A3A (the GICs) issued by Executive Life Insurance Company of California (Executive Life); and (2) the potential repayment of the Loans by the Plans (the Repayments); provided that (a) all terms of such transactions are no less favorable to the Plans than those which the Plans could obtain in arm's-length transactions with an unrelated party, (b) no interest and/or expenses are paid by the Plans, (c) the Loans are made only in lieu of payments due from Executive Life with respect to the GICs, (d) the Repayments are restricted to the amounts, if any, paid to the Plans by Executive Life or other responsible third parties with respect to the GICs (the GIC Proceeds), (e) the Repayments do not exceed the total amount of the Loans, and (f) the Repayments are waived to the extent the Loan amounts exceed the GIC Proceeds.

Summary of Facts and Representations

1. The Plans are defined contribution plans with approximately 6,200 participants and total assets of approximately $27,698,604 as of December 31, 1991. The assets of the Plans are held and managed in a master trust (the Trust) by State Street Bank and Trust Company of Boston, Massachusetts (the Trustee). Each Plan provides for individual participant accounts (the Accounts) and participant-directed investment of the Accounts among investment options offered by the Trustee. The Plans were established, and are maintained, by the Employer, a publicly-traded Delaware corporation engaged in the retail sale of fashion apparel, with its principal place of business in Framingham, Massachusetts.

2. Participant contributions to the Plans are maintained in the Accounts and are invested according to each participant's directions into any of five investment funds (the Funds), including a fixed income fund (the FI Fund), which includes the GICs among its assets. Subject to certain restrictions, once each calendar quarter participants may elect to transfer all or part of their Account balances from one Fund to another. Six potential events under the Plans require a distribution of all or a portion of a participant's Account: (1) Termination of employment; (2) minimum distributions following attainment of age 70½; (3) in-service distribution following attainment of age 59½, or for hardship; (4) corrective distributions of excess contributions by highly compensated employees under section 401(k)(8) of the Code; (5) loans; and (6) interfund transfers (collectively, the Distributions).

3. Investment assets held by the FI Fund (FI Assets) include guaranteed investment contracts issued by four insurance companies, including Executive Life, and shares of a regulated investment company investing in short-term bonds. The Accounts participating in the FI Fund earn a blended rate of interest based on the earnings of all FI Assets. Distributions, except loans, are allocated quarterly pro rata among the FI Assets on the basis of each investment's accumulated book value.[15] The FI Assets include the GICs, which are described as follows:

(a) Contract No. 1190 (the 1987 GIC), purchased from Executive Life in January 1987, guaranteed an interest rate of 8.54 percent (the Guaranteed Rate) and was payable by Executive Life in installments on three maturity dates: one-third on December 31, 1989, one-half of the balance on December 31, 1990, and the remainder on January 9, 1992. The Trustee states that the 1989 and 1990 payments were made as scheduled, and that the 1987 GIC had an accumulated book value of $563,853.12 as of December 31, 1991.

(b) Contract No. 1307A3A (the 1989 GIC), purchased from Executive Life in January 1989, guaranteed an interest rate of 9 percent (the Guaranteed Rate), with a maturity date of January 3, 1993. The Trustee states that the 1989 GIC had an accumulated book value of $2,884,867.84 as of December 31, 1991.

Under the terms of the GICs, withdrawals by the Plan prior to the GICs' maturity dates (the Withdrawals) are authorized to fund Distributions with respect to Accounts invested in the FI Fund. The Trustee represents that, as of December 31, 1991, the GICs represented approximately 20 percent of the FI Assets, and approximately 12 percent of the Plans' total assets.

4. On April 11, 1991 Executive Life was placed into conservatorship by the California Insurance Commissioner.[16] The Employer represents that Executive Life ceased payments on contracts such as the GICs upon the commencement of the conservatorships. Under a proposed rehabilitation plan for Executive Life (the Rehab Plan) announced January 13, 1992, the California Insurance Commissioner indicated that the Rehab Plan would occur over three to five years, and possibly longer. The Employer represents that Executive Life failed to make payment upon the final maturity of the 1987 GIC on January 9, 1992, and that under the prevailing circumstances it is doubtful that Executive Life will make timely payment to the FI Fund upon maturity of the 1989 GIC or for Withdrawals under either of the GICs. The Employer desires to take action with respect to the Plans' investments in the GICs which will place the Plans in the same financial position as if Executive Life were able to meet its obligations under the GICs, while ensuring preservation of the Plan's rights of recovery from Executive Life or any sources making payments on behalf of Executive Life. In order to accomplish these objectives, and to protect the affected Plan participants from any adverse effects of continued nonpayment on the GICs and possibly prolonged Rehab Plan, the Employer proposes the Advances as interest-free loans to the Plans, at such times and in such amounts as Withdrawals would be permissible under the terms of the GICs. An exemption is requested by the Employer to permit the Advances under the terms and conditions described herein.

5. The Advances will be made pursuant to a written agreement between the Employer and the Trust (the Agreement) embodying all terms of the extension of credit and its repayment. The Agreement provides that if, at any time, Executive Life fails to pay to the Plans any amounts due as Withdrawals in accordance with the terms of the GICs, then the Employer will advance to the Plans the difference between the amount due to the Plans under the GICs and the amount paid to the Plans, if any, when such payment is due under the GICs. Interest will continue to be earned by the Accounts on the amounts attributable to the Plans' investments in the GICs at the following rates (the Credit Interest): (a) through the maturity dates of the GICs, at the Guaranteed Rates; (b) from the maturity dates until the date of approval of the Rehab Plan, at an interim rate (defined as the five-year Treasury Bill rate, determined as of the last business day of the calendar year preceding the calendar year for which interest is being

[15] The applicant represents that the accumulated book value of an FI Asset is equal to the total premium deposits made under the Asset plus accrued interest at the rate guaranteed by the Asset less any withdrawals made pursuant to the terms of the Asset.

[16] The Department notes that the decisions to acquire and hold the GICs are governed by the fiduciary responsibility requirements of Part 4, Subtitle B, Title I of the Act. In this proposed exemption, the Department is not proposing relief for any violations of Part 4 which may have arisen as a result of the acquisition and holding of the GICs.

credit, minus 75 basis points); and (c) following the approval of the Rehab Plan, at the rate specified in the Rehab Plan.

In addition to the Advances in lieu of Withdrawals under the GICs, the Agreement provides for a final Advance to the Plan (the Final Advance) no later than ninety days after the Trust has received all available proceeds with respect to the GICs under the Rehab Plan. If, in the final resolution of the Executive Life conservatorship, the Trust receives an aggregate amount from or on behalf of Executive Life which is less than the total amounts then due under the GICs, including principal and Credit Interest, then the Employer will make the Final Advance in the amount of this deficiency, reduced by the sum of all previous Advances, including deemed earnings thereon.

Repayment of the Advances under the Agreement is limited to payments made to the Plans pursuant to the GICs by Executive Life or by any conservator, trustee or other person performing similar functions with respect to Executive Life, or by any state guaranty fund or other person or entity, other than the Employer, acting as a surety or insurer with respect to Executive Life. No other assets of the Plans will be available for repayment of the Advances. If payments by or on behalf of Executive Life are not sufficient to repay fully the Advances, the Agreement provides that the Employer will have no recourse against the Plans, or against any participants or beneficiaries of the Plans, for the unpaid amount. To the extent the Plans receive amounts with respect to the GICs from or on behalf of Executive Life in excess of the total amount of Advances, such additional amounts will be retained by the Plans and allocated among the accounts of participants in the FI Fund.

With respect to any payment pursuant to the GICs received by the Plans at a time when no payment is scheduled under the GICs, the Agreement provides that such payment shall be applied (1) first to reduce the accumulated book value of the GICs, and, after the accumulated book value of the GICs has been reduced to zero, (2) then to repayment of Advances under the Agreement. Payments received by the Plan with respect to the 1987 Contract and the 1989 Contract shall be accounted for separately.

6. In summary, the applicant represents that the proposed transaction satisfies the criteria of section 408(a) of the Act for the following reasons: (1) The Advances will preserve the Plans' rights with respect to the GICs and enable the Plans to maintain the same financial position which would result from timely payment of Withdrawals under the GICs by Executive Life; (2) The Plans will pay no interest or incur any expenses with respect to the Advances; (3) Repayment of the Advances will be restricted to payments by or on behalf of Executive Life with respect to the GICs and no other Plans assets will be involved in the transactions; and (4) Repayment of the Advances will be waived to the extent the Plans recoup less from or on behalf of Executive Life on the disposition of the GICs than the total amount of the Advances.

FOR FURTHER INFORMATION CONTACT: Ronald Willett of the Department (202) 523-8881. (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

(1)The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest of disqualified person from certain other provisions of the Act and/or the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404 (a)(1)(b) of the act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) Before an exemption may be granted, under section 408(a) of the Act and/or section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan;

(3) The proposed exemptions, if granted will be supplemental to, and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction; and

(4) The proposed exemptions, if granted, will be subject to the express condition that the material facts and representations contained in each application are true and complete, and that each application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, DC, this 17th day of June, 1992.

Ivan Strasfeld,

Director of Exemption Determinations, Pension and Welfare Benefits Administration, Department of Labor.

[FR Doc. 92-14625 Filed 6-19-92; 8:45 am]

BILLING CODE 4510-29-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice: (92-40)]

Intent to Grant a Patent License

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Notice of intent to grant an exclusive patent license.

SUMMARY: NASA intends to grant Alton Ochsner Medical Foundation, having its headquarters in New Orleans, Louisiana, an exclusive, royalty-bearing, revocable license to practice U.S. Patent Application Serial No. 07/842,956 entitled Digital Data Registration and Differencing Compression System. U.S. Patent Application Serial No. 07/842,956 pertains to a method of digitally subtracting a reference X ray from a normal X ray in order to transmit the normal X ray more efficiently. The patent license will be for a limited number of years and will contain appropriate terms and conditions in accordance with the NASA Patent Licensing Regulations, 14 CFR 1245.200 *et seq.* NAS will grant the patent license in accordance with its licensing regulations unless the Director of Patent Licensing receives written objections to the grant, together with any supporting documentation, within 60 days of the date of this notice. The Director of Patent Licensing will review all written objections to the grant and then recommend to the Associate General Counsel (Intellectual Property) whether to grant the license.

DATES: Written objections to this proposed license grant must be received by August 21, 1992.

ADDRESSES: Written objections should be sent to: National Aeronautics and Space Administration, Code GP, Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Mr. Harry Lupuloff at (202) 453–2430.

Dated: June 15, 1992.

Edward A. Frankle,

General Counsel.

[FR Doc. 92–14582 Filed 6–19–92; 8:45 am]

BILLING CODE 7510-01-M

NUCLEAR REGULATORY COMMISSION

Documents Containing Reporting or Recordkeeping Requirements; Office of Management and Budget Review

AGENCY: Nuclear Regulatory Commission (NRC).

ACTION: Notice of the Office of Management and Budget Review of information collection.

SUMMARY: The Nuclear Regulatory Commission has recently submitted to the Office of Management and Budget (OMB) for review the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

1. *Type of submission, new, revision or extension:* Revision.

2. *The title of the information collection:* 10 CFR 50.72 and 50.73, Proposed Minor Rulemaking to Modify Operating Reactor Event Reporting Requirements.

3. *The form number if applicable: NRC Forms:* 366, 366A, and 366B.

4. *How often the collection is required:* On Occasion.

5. *Who will be required or asked to report:* Holders of Operating Licenses for Commercial Nuclear Power Plants.

6. *An estimate of the number of responses:* It is estimated that annually this rulemaking would eliminate the notification of 150 events under § 50.72, and the submittal of 150 LERs under § 50.73.

7. *An estimate of the total number of hours needed annually to complete the requirement or request:* It is estimated that annually this rulemaking would eliminate 37 hours of reporting under § 50.72 and 7,500 hours of reporting under § 50.73.

8. *Section 3504(h), Public Law 96–511 applies:* Applicable.

9. *Abstract:* This rulemaking would eliminate notification requirements under § 50.72 and LER submittal under § 50.73 for certain invalid engineered safety feature (ESF) actuations that are of no safety significance.

Copies of the submittal may be inspected or obtained for a fee from the NRC Public Document Room, 2120 L Street, NW., Lower Level, Washington, DC.

Comments and questions can be directed by mail to the OMB reviewer: Ronald Minsk, Office of Information and Regulatory Affairs (3150–0011 and –0104), NEOB–3019, Office of Management and Budget, Washington, DC 20503.

Comments can also be submitted by telephone at (202) 395–3084.

The NRC Clearance Officer is Brenda Jo. Shelton, (301) 492–8132.

Dated at Bethesda, Maryland this 12th day of June 1992.

For the Nuclear Regulatory Commission.

Gerald F. Cranford,

Designated Senior Official for Information Resources Management.

[FR Doc. 92–14603 Filed 6–19–92; 8:45 am]

BILLING CODE 7590-01-M

Documents Containing Reporting or Recordkeeping Requirements; Office of Management and Budget Review

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Notice of the Office of Management and Budget review of information collection.

SUMMARY: The Nuclear Regulatory Commission (NRC) has recently submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

1. *Type of submission, new, revision, or extension:* Revision.

2. *The title of information collection:* 10 CFR 50.36, 50.44, 50.59, 50.71, and 20.1906b, Revision of Regulations to Reduce the Regulatory Burden on Nuclear Licensees.

3. *The form if applicable:* Not applicable.

4. *How often the collection is required:* FSAR Update and Facility Design Change Reports—reduce frequency of reporting from annual to once per refueling outage; Radiological Effluent Report—reduce the frequency of updating from semiannual to annual.

5. *Who will be required or asked to report:* This rulemaking would relax the reporting burden for nuclear power reactor licensees and certain materials licensees.

6. *Estimate of the number of responses:* It is estimated that annually this rulemaking would eliminate 186 responses for nuclear power reactors and the generation of 30,000 records for certain materials licensees.

7. *An estimate of the total number of hours needed to complete the requirement or request:* Burden reduction as follows: Part 50—38,680 hours for nuclear power reactor licensees (average 208 hours per response); and material licensees under part 20—30,000 hours (1 hour per record).

8. *An indication of whether section 3504(h), Public Law 96–511 applies:* Applicable.

9. *Abstract:* The Nuclear Regulatory Commission (NRC) is proposing to amend its regulations to reduce the regulatory burden imposed on nuclear power reactor and material licensees in the spirit of a request from the President of the United States, dated January 28, 1992, to reduce the burden of governmental regulation to ensure the regulated community is not subject to duplicative or inconsistent regulation. This rulemaking reduces the regulatory burden imposed on the public in the following five areas:

(1) Under 10 CFR 50.71, licensees may, in lieu of an annual submission, choose to provide FSAR updates once per refueling outage;

(2) Under 10 CFR 50.59, licensees may, in lieu of an annual update, provide design change reports once per refueling outage;

(3) Under 10 CFR 50.44, 50.46, and appendix K to part 50, licensees may use ZIRLO as well as zircaloy cladding, eliminating the need to request an exemption;

(4) Under 10 CFR 50.36a, licensees may, in lieu of a semiannual submission, submit radiological effluent reports annually; and

(5) 10 CFR 20.1906(b) reduces the monitoring, and therefore the need to record information, for certain packages containing radioactive material in the form of a gas or in special form as defined in 10 CFR 71.4.

Copies of the submittal may be inspected or obtained for a fee from the NRC Public Document Room, 2120 L Street, NW., Lower Level, Washington, DC 20555.

Comments and questions can be directed by mail to the OMB reviewer: Ronald Minsk, Office of Information and Regulatory Affairs (3150–0011 and 0014), NEOB 3019, Office of Management and Budget, Washington, DC 20503.

Comments can also be communicated by telephone at (202) 395–3085.

The NRC Clearance Officer is Brenda Jo. Shelton, (303) 492–8132.

Dated at Bethesda, Maryland, this 15th day of June 1992.

For the U.S. Nuclear Regulatory Commission.

Gerald F. Cranford,

Designated Senior Official for Information Resources Management.

[FR Doc. 92-14604 Filed 6-19-92; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards (ACRS) and Advisory Committee on Nuclear Waste (ACNW); Proposed Meetings

In order to provide advance information regarding proposed public meetings of the ACRS Subcommittees and meetings of the ACRS full Committee, of the ACNW, and the ACNW Working Groups the following preliminary schedule is published to reflect the current situation, taking into account additional meetings that have been scheduled and meetings that have been postponed or cancelled since the last list of proposed meetings was published May 21, 1992 (57 FR 21676). Those meetings that are firmly scheduled have had, or will have, an individual notice published in the **Federal Register** approximately 15 days (or more) prior to the meeting. It is expected that sessions of ACRS and ACNW full Committee meetings designated by an asterisk (*) will be closed in whole or in part to the public. The ACRS and ACNW full Committee meetings begin at 8:30 a.m. and ACRS Subcommittee and ACNW Working Group meetings usually begin at 8:30 a.m. The time when items listed on the agenda will be discussed during ACRS and ACNW full Committee meetings, and when ACRS Subcommittee and ACNW Working Group meetings will start will be published prior to each meeting. Information as to whether a meeting has been firmly scheduled, cancelled, or rescheduled, or whether changes have been made in the agenda for the July 1992 ACRS and ACNW full Committee meetings can be obtained by a prepaid telephone call to the Office of the Executive Director of the Committees (telephone: 301/492-4600 (recording) or 301/492-7288, Attn: Barbara Jo White) between 7:30 a.m. and 4:15 p.m., Eastern Time.

ACRS Subcommittee Meetings

Thermal Hydraulic Phenomena, June 23-24, 1992, Bethesda, MD. The Subcommittee will continue its review of the Westinghouse Electric Corporation's and the NRC staff's proposed test programs for support of the AP600 passive plant design certification effort. Portions of this meeting may be closed to discuss Proprietary Information applicable to this matter.

Severe Accidents, June 25, 1992, Bethesda, MD. The Subcommittee will continue the discussion of NUREG-1365, Severe Accident Research Program Plan.

Joint Plant License Renewal and Materials and Metallurgy, July 7, 1992, Bethesda, MD. The Subcommittees will discuss the proposed Standard Review Plan for License Renewal and an associated draft Regulatory Guide on the Form and Content of a License Renewal Application, and the proposed Branch Technical Position on Reactor Component Fatigue Considerations for License Renewal.

Auxiliary and Secondary Systems, July 8, 1992, Bethesda, MD, 8:30 a.m.-12 Noon. The Subcommittee will discuss the proposed resolution of Generic Issue 106, "Piping and Use of Highly Combustible Gases in Vital Areas."

Control and Electrical Power Systems, July 8, 1992 (tentative), Bethesda, MD, 1 p.m.-4 p.m. The Subcommittee will review the proposed Supplement 1 to Generic Letter 83-28, "Required Actions Based on Generic Implications for Salem ATWS Events," and an associated Differing Professional Opinion filed by Charles Morris, NRC Office of Nuclear Reactor Regulation (NRR).

Planning and Procedures, July 8, 1992, Bethesda, MD, 1 p.m.-4 p.m. The Subcommittee will discuss proposed ACRS activities and related matters. Qualifications of candidates nominated for appointment to the ACRS will also be discussed. Portions of this meeting will be closed to discuss information the release of which would represent a clearly unwarranted invasion of personal privacy.

Ad Hoc Subcommittee on Separate and Independent Requirements, July 28, 1992, Bethesda, MD—CANCELLED.

Advanced Boiling Water Reactors, July 28, 1992 (tentative), Bethesda, MD. The Subcommittee will discuss control building flooding, adequacy of physical separation, protection of environmentally sensitive equipment, and the adequacy of the treatment of the GE ABWR Reactor Water Cleanup System in the GE Standard Safety Analysis Report. In addition, the Subcommittee will discuss the relationship of these items to the proposed Inspections, Tests, Analysis, and Acceptance Criteria (ITAAC).

Improved Light Water Reactors, July 29, 1992 (tentative), Bethesda, MD. The Subcommittee will review the Draft Safety Evaluation Report (DSER) of the EPRI's Requirements Document for the passive plant designs. *Joint Decay Heat Removal Systems/Advanced Boiling Water Reactors,* August 5, 1992, Bethesda, MD. The Subcommittees will discuss Inspections, Tests, Analysis, and Acceptance Criteria (ITAAC) for selected systems related to GE ABWR.

Planning and Procedures, August 5, 1992, Bethesda, MD (3 p.m.-5:30 p.m.). The Subcommittee will discuss proposed ACRS activities and related matters. Qualifications of candidates nominated for appointment to the ACRS will also be discussed. Portions of this meeting will be closed to discuss information the release of which would represent a clearly unwarranted invasion of personal privacy.

Ad Hoc Subcommittee on Separate and Independent Requirements, August 19, 1992, Bethesda, MD. The Ad Hoc Subcommittee will discuss the key technical issue on Separation and Independence Requirements for Safety Trains.

Computers in Nuclear Power Plant Operations, August 20-21, 1992, Bethesda, MD. The Subcommittee will continue its review of hardware and software issues for digital I&C systems. National experts will discuss software design concepts including safety, reliability, fault-tolerance, formal methods, and verification and validation.

Computers in Nuclear Power Plant Operations, September 22, 1992, Bethesda, MD. The Subcommittee will host a special international meeting to hear directly from manufacturers in Germany, France, Japan, U.K., Sweden, and Canada about advanced developments in digital I&C systems.

Advanced Boiling water Reactors, September 23, 1992, Bethesda, MD. The Subcommittee will review the Final Safety Evaluation Report (FSER) for the GE ABWR design.

Advanced Pressurized Water Reactors, October 7, 1992, Bethesda, MD. The Subcommittee will continue its review of the ABB CE System 80+ Design Certification. Topics being proposed for discussion include: Engineered Safety Feature Systems; and incorporation of the requirements resulting from the resolution of USIs and GSIs in to the System 80+ design.

Advanced Boiling Water Reactors, October 21, 1992, Bethesda, MD. The Subcommittee will continue its review of the Final Safety Evaluation Report (FSER) for the GE ABWR design.

ACRS Full Committee Meetings

387th ACRS Meeting, July 9-11, 1992, Bethesda, MD. Items are tentatively scheduled.

A. *Policy Issues for the Certification of Evolutionary and Passive Plant Designs*—Review and comment on technical and policy issues identified by the NRC staff which are applicable to the certification of evolutionary and passive plant designs and on the proposed staff positions for resolution of these issues. Representatives of the NRC staff and the nuclear industry will participate, as appropriate.

*B. *Reactor Safety Research*—Review and comment on a proposed revision to the NRC Severe Accident Research program Plan (NUREG–1365) to update the program consistent with regulatory developments. Representatives of the NRC staff will participate, as appropriate.

C. *Pilot Simulator Examination Program*—Briefing by representatives of the NRC staff regarding results of the pilot program for using nuclear plant simulators in operator requalification examination.

D. *Emergency Response Plan*—Briefing by representatives of the NRC staff regarding the recent demonstration of emergency response plan at the Pilgrim nuclear power station. Representatives of the licensee will participate, as appropriate.

E. *Inspections, Tests, Analysis and Acceptance Criteria (ITAAC)*—Briefing by members of the NRC staff and discussion of the status of the ITAAC program and plans for its implementation.

F. *EPRI Requirements for Evolutionary LWRs*—Review and report on the NRC staff Safety Evaluation report regarding EPRI proposed requirements for evolutionary light-water reactors. Representatives of the NRC staff and the nuclear industry will participate, as appropriate.

G. *Meeting with Director, NRC Office for Analysis and Evaluation of Operational Data (AEOD)*—Meeting and discussion with the Director, NRC/AEOD to discuss items of mutual interest, including:

- Use of "expert systems" in the accident management process
- Use of nuclear plant simulators by the NRC/recent upgrade of simulators at Chattanooga training facility
- Status of the Emergency Response Data System (ERDS) implementation

H. *Generic Issue 106, Piping and Use of Highly Combustible Gases in Vital Areas*—Review and comment on proposed NRC staff resolution of this generic issue. Representatives of the NRC staff and the nuclear industry will participate, as appropriate.

*I. *Integral System Testing for the Westinghouse AP600 Design*—Review and comment on proposed integral systems testing programs for this standardized nuclear power plant. Representatives of the applicant and the NRC staff will participate, as appropriate.

J. *Common-Mode Failure Events (tentative)*—Briefing and discussion of insights gained from an analysis of selected common-mode failure events at nuclear facilities. Representatives of the NRC staff will participate, as appropriate.

K. *Prioritization of Generic Safety Issues*—Briefing and discussion regarding use of a matrix by NRC to prioritize generic issues taking into account the Safety Goal Policy. Representatives of the NRC staff and the nuclear industry will participate, as appropriate.

L. *Reactor Component Fatigue Considerations for License Renewal*—Review and comment on proposed NRC Branch Technical Position on component fatigue considerations for license renewal. Representatives of the NRC staff and the nuclear industry will participate, as appropriate.

M. *Standard Review Plan for License Renewal*—Review and comment on the proposed NRC Standard Review Plan for License Renewal and an associated draft Regulatory Guide on the Form and Content of a License Renewal Application. Representatives of the NRC staff and the nuclear industry will participate, as appropriate.

N. *Future ACRS Activities*—Discuss topics proposed for consideration by the full Committee.

O. *Reconciliation of ACRS Comments/Recommendations*—Discuss response from NRC Executive Director for Operations regarding the NRC staff position and plans to deal with ACRS comments and recommendations on regulatory matters.

*P. *Appointment of ACRS Members*—Discuss qualifications of candidates proposed for appointment to the Committee.

Q. *ACRS Subcommittee Activities*—Reports and discussion regarding the status of designated subcommittee activities, including the conduct of committee business.

*R. *Miscellaneous Matters*—Discuss matters which were not completed at previous meetings as time and availability of information permit.

388th ACRS Meeting, August 6–8, 1992, Bethesda, MD. Agenda to be announced.

389th ACRS Meeting, September 10–12, 1992, Bethesda, MD. Agenda to be announced.

390th ACRS Meeting, October 8–10, 1992, Bethesda, MD. Agenda to be announced.

391st ACRS Meeting, November 5–7, 1992, Bethesda, MD. Agenda to be announced.

392nd ACRS Meeting, December 10–12, 1992, Bethesda, MD. Agenda to be announced.

ACNW Full Committee and Working Group Meetings

44th ACNW Meeting, June 25, 1992, Kennewick, WA, 1 p.m.–5 p.m. Items are tentatively scheduled.

A. Address the request from Chairman Selin made on April 24, 1992, for a supplemental report regarding a systems analysis approach for reviewing the overall HLW management and disposal program.

B. Hear a report from the ACNW Working Group Chairman on a recent meeting in which the NRC staff presented the results of its review of DOE's Early Site Suitability Evaluation. A report on this topic by the Committee is expected.

C. Hear a briefing regarding the status of remedial actions at the Hanford site.

D. Hear a briefing and hold discussions regarding in situ vitrification programs.

E. Discuss and consider a draft report concerning progress on the DOE's Site Characterization plan for the proposed high-level waste repository, complementary study plans, and DOE's efforts to resolve the issues raised in the NRC staff's Site Characterization Analysis.

F. Discuss anticipated and proposed Committee activities, future meeting agenda, administrative, and organizational matters, as appropriate. Also, discuss matters and specific issues that were not completed during previous meetings as time and availability of information permit.

45th ACNW Meeting, July 30–31, 1992, Bethesda, MD—Agenda to be announced.

46th ACNW Meeting, August 13–14, 1992, Bethesda, MD—Deferred until September 24–25, 1992.

ACNW Working Group on Performance Assessment, September 23, 1992, Bethesda, MD. The Working Group will discuss the status of the DOE's Total System Performance Assessment. Also, this Group will discuss the progress of Phase 2 of the HLW Iterative Performance Assessment effort by NRC.

46th ACNW Meeting, September 24–25, 1992, Bethesda, MD—Agenda to be announced.

ACNW Working Group on Inadvertent Human Intrusion Related to the Presence of Natural Resources at a High-Level Waste Repository Site, October 20, 1992, Las Vegas, NV. The

Working Group will discuss methodologies for the assessment of the potential for natural resources at the proposed high-level waste repository site at Yucca Mountain. The relationship between such resources and the potential for human intrusion will be emphasized.

47th ACNW Meeting, October 21–23, 1992, Las Vegas, NV—Agenda to be announced.

ACNW Working Group on the Impact of Long-Range Climate Change in the Area of the Southern Basin and Range, November 18, 1992, Bethesda, MD. The Working Group will discuss the historical evidence and the potential for climate changes in the Southern Basin and Range and the impact of climate change on natural processes affecting the performance of the proposed high-level waste repository at Yucca Mountain.

48th ACNW Meeting, November 19–20, 1992, Bethesda, MD—Agenda to be announced.

49th ACNW Meeting, December 17–18, 1992, Bethesda, MD—Agenda to be announced.

Dated: June 16, 1992.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 92–14601 Filed 6–19–92; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50–320]

General Public Utilities Nuclear Corp. Exemption

I

GPU Nuclear Corporation, (the licensee) is the holder of Facility Operating License No. DPR–73, which had authorized the operation of the Three Mile Island Nuclear Station, Unit 2 (TMI–2) at power levels up to 2772 megawatts thermal. The facility, which is located in Londonderry Township, Dauphin County, Pennsylvania, is a pressurized water reactor previously used for the commercial generation of electricity.

By Order for Modification of License, dated July 20, 1979, the licensee's authority to operate the facility was suspended and the licensee's authority was limited to maintaining the facility in the shutdown cooling mode (44 FR 45271). By further Order of the Director, Office of Nuclear Reactor Regulation, dated February 11, 1980, a new set of formal license requirements was imposed to reflect the post-accident condition of the facility and to assure the continued maintenance of the safe, stable, long-term cooling condition of the facility (45 FR 11292). These license conditions and those imposed by subsequent orders were formally incorporated into the TMI–2 license on January 27, 1987. The license provides, among other things, that it is subject to all rules, regulations and orders of the Commission now or hereafter in effect.

II

Section (a) of 10 CFR 70.24 requires that each licensee authorized to possess special nuclear material (SNM) shall maintain in each area where such material is handled, used, or stored, an appropriate criticality monitoring system. Section (a)(1) of 10 CFR 70.24 requires that coverage of all such areas at TMI–2 shall be provided by two criticality detectors.

By letter dated May 21, 1987, GPU Nuclear requested an exemption from this requirement for TMI–2 SNM sample storage areas. Specifically the licensee proposed to handle and store SNM samples without having the two criticality monitoring systems required by 10 CFR 70.24. Such exemptions may be authorized pursuant to 10 CFR 70.24, provided that the licensee has shown that good cause exists for the exemption. In particular, Revision 2 of Regulatory Guide 8.12 "Criticality Accident Alarm Systems," October 1988, states that it is appropriate to request an exemption from 10 CFR 70.24 if an evaluation determines that a potential for criticality does not exist, as for example where the quantities or form of special nuclear material make criticality practically impossible or where geometric spacing is used to preclude criticality.

The licensee has previously demonstrated in "Ex-RCS Criticality Safety" TPO/TMI–132, November 1985, that the minimum critical mass has been conservatively calculated to be 93 Kg for the maximally enriched fuel used at TMI–2. The NRC staff has confirmed the licensee's evaluation. This has been documented most recently in the staff's "Technical Evaluation of TMI–2 Post-Defueling Monitored Storage," February 1992. The licensee has applied an additional 25 percent mass conservatism and derived an administrative safe fuel mass limit of 70 Kg. The licensee proposes to limit storage of SNM in any storage area to less than 70 Kg and to use criticality safe storage containers for all storage of SNM. Additionally, the licensee has placed geometric limits requiring a minimum separation distance of either 12 feet of air or 1 foot of concrete between SNM storage areas. The NRC staff finds this acceptable. The limitations on spacing of adjacent SNM storage areas will preclude neutronic interaction between any of the storage areas. The staff has also required that all storage containers be criticality safe by design.

Since the stored SNM will be criticality safe by the use of mass limits and geometric spacing, we conclude that the licensee's request for and exemption from the requirements of 10 CFR 70.24 with respect to storage of SNM samples is acceptable and should be granted.

III

Accordingly, the Commission has determined that pursuant to 10 CFR 70.24(d) good cause exists for the granting of this exemption. In accordance with 10 CFR 70.14 exemption from the requirements of 10 CFR 70.24 is authorized by law and granting the exemption will not endanger life or property or the common defense and security, and is in the public interest.

Accordingly, the Commission hereby grants exemption from the requirements of 10 CFR 70.24, criticality accident requirements for SNM storage areas at Three Mile Island, Unit 2. Pursuant to 10 CFR 51.32, the Commission has determined that the granting of this exemption will have no significant impact on the quality of the human environment (57 FR 26668, June 15, 1992).

Dated at Rockville, Maryland this 15th day of June 1992.

For the Nuclear Regulatory Commission.

Bruce A. Boger,

Division of Reactor Projects—III/IV/V, Office of Nuclear Reactor Regulation.

[FR Doc. 92–14602 Filed 6–19–92; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF PERSONNEL MANAGEMENT

Proposed Information Collection Submitted to OMB for Expedited Clearance

AGENCY: Office of Personnel Management.

ACTION: Notice of proposed information collection.

SUMMARY: In accordance with the Paperwork Reduction Act of 1980 (chapter 35 of title 44, United States Code), this notice announces a request submitted by the Office of Personnel Management (OPM) to the Office of Management and Budget (OMB) for expedited clearance of a new information collection: OPM Nonforeign Area Cost-of-Living Allowance (COLA) Employee Housing and Living Patterns Survey. This information collection will be used to obtain information on living

patterns and housing costs of Federal employees in COLA areas and in the Washington, DC, area. The Washington, DC, area will be included in the survey because DC is the reference area for living cost comparisons. The survey will determine such things as the typical family size and income; whether employees own or rent their homes; the size and type of home; and where employees live, shop, and travel. OPM will use the results of the survey to evaluate and improve other surveys conducted to set COLA's paid Federal employees in Alaska, Hawaii, Guam, Puerto Rico, and the Virgin Islands as authorized by section 5941 of title 5, United States Code. Participation in the survey will be voluntary. The information collected will be held in confidence, and no information will be released that would allow survey responses to be linked to individuals. Approximately 69,800 employees (all 42,300 in the COLA areas and 27,500 in the Washington, DC, area) will be asked to complete the survey questionnaire. OPM estimates that on average it will take 20 minutes of non-work time to complete these questionnaires and that the overall response rate will not exceed 65 percent, for a maximum total burden of 15,158 hours. A copy of the survey questionnaire is appended to this notice. OPM is requesting that OMB approve this information collection within 14 days after the date of publication in the **Federal Register.**

DATE: Comments on this proposal should be received on or before July 2, 1992.

ADDRESSES: Send or deliver written comments to:

Phyllis G. Foley, Manager Cost-of-Living Allowance Program, U.S. Office of Personnel Management, 1900 E Street, NW., room 7H38, Washington, DC 20415

and

Joseph Lackey, OPM Desk Officer, Office of Management and Budget, New Executive Office Building, room 3002, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Donald Paquin, (202) 606–3710.

U.S. Office of Personnel Management.

Constance Berry Newman,

Director.

U.S. Office of Personnel Management Federal Employee Housing and Living Patterns Survey

About the Survey

As stated in our cover letter, this survey is designed to collect information that will be used to evaluate and improve the procedures used to set cost-of-living allowances (COLA's) in nonforeign overseas areas and Alaska. The survey will not be used to adjust COLA rates.

This survey has three major sections: a General Information section, a Housing Cost and Information section, and a Living Patterns Information section. Please complete all three sections.

Several questions are particularly important to us. For example, we ask for your community or subdivision so that we can better identify the appropriate communities to survey in the annual COLA Price Surveys. We ask about total household income because frequently housing and living patterns are based on both the employee's Federal salary plus other sources of income.

Confidentiality

OPM realizes we are asking for sensitive information. We assure you that all of the information you provide will be held in the strictest confidence. No information will be released that will allow any survey responses to be linked to individuals.

How to Mark Your Answers

We suggest you use a number 2 pencil to complete the survey, though you may also use a dark ink pen. Please write legibly. If you need to make a correction, erase your previous answer thoroughly or cross through the incorrect answer and write the correction above it.

For Those Who May Have Other Residences

For purposes of the survey, answer questions as they relate to your *primary residence.* Your primary residence is defined as "the place in which you are living in your immediate area at the time you fill out this survey." If you are on temporary assignment, answer questions about your permanent duty station area residence.

General Information

About Yourself

Community or Subdivision

_____

City

_____

State _____

Zip Code + 4 _____

2 What is your pay plan? _____

Grade? _____

Step? _____

3 Enter the code for your employing agency from the list below:

AG—Agriculture
AF—Air Force
AR—Army
CM—Commerce
DD—Other DOD
ED—Education
EN—Energy
HE—Health and Human Services
HU—Housing and Urban Development
IN—Interior
DJ—Justice
DL—Labor
NV—Navy
PO—Postal Service
ST—State
TD—Transportation
TR—Treasury
VA—Veterans Affairs
XX—Other (specify)

_____

4 Enter the code for your duty station from the list below:

AN—Anchorage
FA—Fairbanks
JU—Juneau
AO—Alaska Other
GU—Guam
OA—Honolulu County
HA—Hawaii County
KA—Kauai County
5MA—Maui County
HO—Hawaii Other
PR—Puerto Rico
SC—St. Croix
ST— St. Thomas/St. Johns
CO—Caribbean Other
DC—District of Columbia
MD—Maryland
VA—Virginia
XX—Other (specify)

_____

About Your Household

5 How many members of your immediate family live in your household? Count yourself and other immediate family members living with you (including those who are away temporarily at school or camp, etc.). Do not include boarders, renters, etc.

If no children, enter zero for number of children. _____

Adults _____

Children _____

6 What is the total *gross annual* income * from all contributing immediate family members in your household? Include your income.

_____

*For most people, this will be the Gross Income reported on their 1991 Federal income tax return.

Housing and Cost Information

Owners and Renters

Both home owners and home renters should complete questions 7 through 21. Then skip to the OWNER or RENTER section, whichever is appropriate for your situation. Mobile home owners, even those renting a space in a trailer park or elsewhere, should complete the OWNER rather than the RENTER section.

7 What best describes your home?

_____

1—Single family detached home
2—Condominium or Co-op
3—Row house/Town house/Zero lot-Line Home
4—Duplex
5—Multi-unit apartment
6—Mobile home
7—Other (specify)_____

About Your Community

8 How important were the following factors when you selected your current primary residence? Rate the following based on a scale in which 1=Very Important and 5=Not Important. (Enter 1, 2, 3, 4 or 5 in the boxes below.)

Rate 1–5

Quality and proximity of schools _____
Cost of housing _____
City services (refuse removal, etc.) _____
Low crime rate _____
Proximity to work _____
Proximity to family/friends _____
Shopping _____
Real estate taxes (renters skip) _____
Recreational opportunities _____
Proximity to airports _____
Proximity to church _____
Proximity to medical services _____
Other (specify) _____

About Your Commute

9 What is the distance from your home to your normal worksite (one-way mileage)? (If you live at your worksite, enter zero.)

Miles _____

10 How long does your commute normally take (one-way time)? (If you live at your worksite, enter zero.)

Minutes _____

11 Enter the code that best describes how you normally commute to and from work.

(If you use more than one mode of transportation, report the one that you use most frequently or for the greatest distance.)

1—Walk/bicycle
2—Drive self
3—Carpool
4—Vanpool/Commuter Bus
5—Public bus or subway
6—Train/ferry
7—Taxi cab
8—Other (specify)_____

About Your Home

12 What is the approximate square footage of the living area in your home?

_____

[Do not include garage, attic space, basement (even if finished), patios, or lanais.]

13 Indicate how many of each type of room you have in your home. (Do not count a room more than once.)

Bedrooms _____
Full baths (basin, toilet, & shower or tub) _____
Half baths (basin & toilet only) _____
Kitchen/Dining room (combined) _____
Kitchen (separate) _____
Dining room (separate) _____
Living room _____
Family room _____
Den or Study _____
Sun room _____

14 Which of the following features or amenities apply to your home or complex? (Check all that apply.)

Basement _____
(finished) _____
(unfinished) _____
Garage _____
(heated) _____
(unheated) _____
Carport _____
Surfaced driveway (asphalt/concrete) _____
Central heating _____
Central air conditioning _____
Wood stove _____
Fireplace _____
City water _____
Well system _____
Cistern/rainwater catchment _____
City sewer _____
Septic system _____
Electric generator _____
Deck _____
(open) _____
(screened) _____
Patio/lanai _____
(open) _____
(screened) _____
Storm doors and windows _____
Fenced yard _____
Storagre shed _____
Above-ground pool _____
In-ground pool _____
Hot tub/spa _____
Dock/pier _____
Lake/water access or rights _____
Golf course rights _____
Tennis court _____
Exceptional view (city, ocean, lake, etc.) _____
Other (specify) _____

15 Which of the following security measures are in place at your home? (Check all that apply.)

Security gate _____
Locked lobby _____
Video surveillance _____
Security fencing _____
Security lights _____
Security guards/personnel _____
Intercom system _____
Security bars _____
Alarm system _____
Guard dog _____

About Your Household Operations

16 Enter the code that best describes the type of energy you use primarily to heat your home.

1—Electric
2—Natural Gas
3—LP Gas
4—Oil
5—Kerosene
6—Solar
7—Coal or Wood
8—Other (specify) _____
9—None

17 For each household appliance in your home, indicate how many appliances are present (of each type) and enter the code for the type of energy used to operate the appliance. Only include appliances actually in your house or rental unit.

Codes:

1—Electric
2—Piped Natural Gas
3—LP Gas
4—Oil
5—Kerosene
6—Solar
7—Coal or Wood
8—Other (list energy type next to the appliance)

	Qty.	Code
Refrigerator		
Stand-alone freezer		
Cooking stove		
Microwave oven		
Garbage disposal		
Dishwasher		
Trash compactor		
Washing machine		
Clothes dryer		
Water heater		
Electronic air cleaner		
Humidifier and/or dehumidifier		
Room air conditioner		
Ceiling fans		

18 Enter your average monthly cost for the following services. Do not report the cost if the charges for these services are part of your mortgage payment, rent payment, or real estate taxes. If you pay for the service on a weekly, quarterly, annual, or as needed basis, please report one-twelfth of the total amount you pay over a one-year period.

Refuse or garbage pick up ..... $
Condo or homeowner fees ..... $
Parking ..... $
Security personnel ..... $
Sewer ..... $
Water ..... $
Cable TV ..... $
Telephone (local and long distance) ..... $
Electricity ..... $
LP Gas ..... $
Piped natural gas ..... $
Heating oil ..... $
Kerosene ..... $
Coal ..... $
Wood ..... $
Other (specify) ..... $

19 Are you responsible for maintenance on your home?

Interior Y/N _____
Exterior Y/N _____
(Renters: If you are responsible for neither interior nor exterior maintenance, skip to question 22.)

About Your Household Maintenance

20 Enter your average monthly cost for services or materials for the following.

Landscape maintenance ..... $
Lawn fertilizing ..... $
Lawn pest control ..... $
Grass cutting ..... $
Gardening ..... $
Other (specify) ..... $
House pest control ..... $
Roof and/or gutter cleaning ..... $
Roof snow removal ..... $
Drive/sidewalk snow removal ..... $
Street/alley snow removal ..... $
Other road maintenance ..... $

21 How often have you performed or anticipate performing the following repairs or maintenance services while you occupy your home? Indicate if you typically perform the repair/service yourself and the cost per repair/service.

(If the item does not apply or you don't know the frequency or cost, skip the item.)

	Once every how many years?	Performed by self?	Cost per service
Exterior painting	[ ] Years.	Y/N [ ]..	$,
Exterior siding	[ ] Years.	Y/N [ ]..	$,
Landscape/Retaining wall repair	[ ] Years.	Y/N [ ]..	$,
Driveway repaid	[ ] Years.	Y/N [ ]..	$,
Septic tank pumping	[ ] Years.	Y/N [ ]..	$,
Chimney tuck pointing/repair	[ ] Years.	Y/N [ ]..	$,
Tenting for fumigation	[ ] Years.	Y/N [ ]..	$,
Soil treatment for termites	[ ] Years.	Y/N [ ]..	$,
Furnace maintenance	[ ] Years.	Y/N [ ]..	$,
Weather stripping replacement	[ ] Years.	Y/N [ ]..	$,
Water heater replacement	[ ] Years.	Y/N [ ]..	$,
Chimney cleaning	[ ] Years.	Y/N [ ]..	$,
Roof repair/replacement	[ ] Years.	Y/N [ ]..	$,
Repair of termite damage	[ ] Years.	Y/N	$,
Foundation work due to wet basements	[ ] Years.	Y/N [ ]..	$,
Frozen pipe damage	[ ] Years.	Y/N [ ]..	$,
Frost heave damage	[ ] Years.	Y/N [ ]..	$,
Damaged trees	[ ] Years.	Y/N [ ]..	$,
Other major repairs due to natural disasters	[ ] Years.	Y/N [ ]..	$,

Renter's Section

Homeowners, including mobile homeowners should skip questions 22–35 and go to question 36.

About Your Rental Agreement

22 What type of lease do you carry on your home?

1-No lease/month-to-month _____
2-One year or less _____
3-More than one year _____

23 If you share your rental with others, how many others share in the cost?

_____

(If you do not share your rental with others, enter zero and skip to question 25.)

24 What is the total monthly rent *you and others* pay? (If none, enter zero.)

$, _____

25 What is the monthly rent (or share of rent) *you* pay? (If none, enter zero.)

$, _____

26 Which of the following items/services are *included* in your monthly rent payment? (Check all that apply.)

Electricity _____
Telephone _____
Cable TV _____
Heat _____
Sewer _____
Water _____
Refuse/garbage pickup _____
None _____

27 What is your security deposit? (If none, enter zero. Do not include first and/or last month's rent.)

Deposit amount $[ ]
Application fee $[ ]

About Your Building/Complex

28 Which best describes your rental situation?

_____

1—General market rental
2—Military housing
3—Federal civilian housing
4—Subsidized housing
5—Rent controlled housing
6—Other (specify)

29 Which amenities does your complex contain? (Check all that apply.)

Recreation or party room _____
Sauna or jacuzzi _____
Tanning room _____
Physical fitness room _____
Racquet ball court _____
Club house _____
Laundry facilities _____

Indoor Parking ____
None ____

About Your Renter's Insurance

30 Do you carry renter insurance for the contents of your home? (If no, enter 'N' and skip to question 60.)

Y/N ____

31 What type of renter insurance do you carry on your contents?

____

1—Depreciated value replacement coverage
2—Full cash value replacement coverage

32 What additional coverage is included in your policy? (Check all that apply.)

Valuables (jewelry, silver, art, etc.) ____
Flood ____
Earthquake ____
Other (specify) ____

33 What is your liability coverage limit?

$ ____

34 What is your deductible amount? (If none, enter zero.)

$ ____

35 What is your total annual renters insurance premium? (Exclude automobile insurance if paid together.)

$ ____

This ends the renter's section—Renters should skip to the Living Patterns Section (question 60).

Owner's Section

About Your Home

36 Which best describes the size of your lot? (Skip if you own a condominium.)

____

1—Less than 5,000 square feet
2—5,000 square feet to almost ¼ acre
3—¼ to almost ½ acre
4—½ to almost 1 acre
5—1 to 5 acres
6—More than 5 acres

37 How long ago was your home built?

____

1—Less than 5 years
2—5 to 9 years
3—10 to 19 years
4—20 to 29 years
5—30 to 39 years
6—40 years or more

38 What is the predominant exterior construction of your home?

____

(If mobile home or condominium owner, skip this question.)

1—Wood
2—Brick
3—Vinyl or aluminum siding
4—Concrete block
5—Stucco
6—Stone
7—Asphalt siding
8—Other (specify)

39 Do you rent out a portion of your home? (If no, enter 'N' and skip to question 41.)

Y/N ____

40 Approximately what percent of your home do you rent out?

Percent ____

About Your Home Purchase

41 When did you acquire or build your home?

Month ____
Year ____

42 Purchse price? If none (e.g., inherited), enter zero.

$ ____

43 What was your down payment? (If no down payment, enter zero.)

.00% ____

44 Enter the code that best describes the purchase of your home?

____

1—You own both land and building(s) (fee simple). (Enter '1' and skip to question 46.)
2—You own the building, land is leased (leasehold).

45 What is your monthly rent for land?

$ ____

About Your Financing

46 Which type of financing do you have on your current first mortgage?

____

1—No mortgage (Enter '1' and skip to question 52.)
2—Mortgage loan through financial institution
3—Mortgage loan through private party (including land contracts)
4—VA loan
5—FHA loan
6—State assisted program

47 What is your current interest rate?

Percent ____
Length of loan? ____

48 What is your current loan type?

1—Fixed rate ____
2—Variable rate or other ____

49 Is this a refinanced loan? If no, enter 'N' and skip to question 51.

Y/N ____

50 When did you refinance?

Month ____
Year 19 ____

51 Do you have a second mortgage used primarily for home purchase or improvement?

Y/N ____

About Your Home's Market Value

52 What is your estimated current home market value?

$ ____

53 For tax purposes, what is the assessed value of your property?

$ ____

54 What were your total real estate taxes in 1991 on your home?

(If none, enter zero.)

$ ____

About Your Homeowner's Insurance

55 What type of homeowner insurance policy do you carry on your primary residence?

____

1—Depreciated value replacement coverage
2—Full cash value replacement coverage
3—None (Enter '3' and skip to question 60.)

56 What additional coverage is included in your policy? (Check all that apply.)

	Not available	Available but not purchased	Available and purchased
Earthquake			
Hurricane/typhoon			
Flood			
Rider for valuables (jewelry, silver, art, etc.)			
Supplemental liability			
Other (specify)			

57 What is your dwelling (hours) liability coverage limit?

$ ____

58 What is your deductible amount? (If none, enter zero.)

$ ____

59 What is your total annual homeowner insurance premium (exclude mortgage insurance or automobile insurance if paid together)?

$ ____

Living Patterns Information

About Commissary and Exchange Purchases

60 Do you have access to commissaries and exchanges at your duty station *by virtue of your Federal civilian employment?* (If no, enter 'N' and skip to question 62.)

Y/N ____

61 Is your access unlimited (you are allowed to use these facilities any time they are open, and your purchases are not restricted to certain items)?

Y/N ____

About Retail Purchases

62 Enter the code of the type of store where you typically purchase the following items.

01—Not Purchased
02—Full Service Grocery
03—Warehouse Grocery
04—Bakery
05—Bulk (Bush) Order
06—Catalog
07—Convenience Store
08—Drug Store
09—Discount Stores
10—HMO Pharmacy
11—Liquor Store
12—Military Facility

Groceries ____
Cigarettes ____
Breads/Bakery ____
Beer/Wine ____

Prescriptions/Medications _____

Liquor

63 How far do you usually travel one-way from your home to your shopping area for the following purchases? (Do not include items purchased by mail order catalog. Extra spaces are provided to accommodate the responses of employees who live in remote areas.)

Groceries (miles) _____
Clothing (miles) _____
Small Appliances/Electronics (miles) _____
Major Appliances/Electronics (miles) _____

64 Enter the code of the type of store or outlet where you typically purchase the following items.

1—Department Stores
2—Discount Stores
3—Drug Stores
4—Specialty Stores
5—TV & Appliance
6—Hardware
7—Military Facility
8—Catalog
9—Not purchased

Men's Clothes _____
Furniture _____
Stereo/TV/VCR _____
Women's Clothes _____
Large Appliances _____
Bedding _____
Children's Clothes _____
Small Appliances _____

65 Which of the following items do you currently own? (Check all that apply.)

Motorboat _____
Sail board/surf board _____
Motorcycle _____
Travel trailer _____
Snowmobile _____
Sailboat _____
Jet ski _____
Airplane _____
Pop-up camper _____
All-terrain vehicle (ATV) _____
Rowboat/canoe/kayak _____
Scuba diving equipment _____
Motor home _____
Tent _____
Golf clubs _____
Other (specify) _____

About Child Care Services

66 Do you pay for occasional evening baby-sitting in your home? If no, enter 'N' and skip to question 68.

Y/N _____

67 In your neighborhood, what is the typical cost per hour for occasional evening baby-sitting for one child?

$. per hour _____

68 Do you pay for child day care? If no, enter 'N' and skip to question 71.

Y/N _____

69 Enter the code of the type of day care you currently use?

_____

1—Day care center
2—In-home day care
3—Private home (other than your own) day care
4—Employer-provided day care

70 What is your average monthly cost per child for day care?

$ _____

About Other Services

71 On average, how much do you spend per month for each of the following domestic services? (If you do not pay for domestic services, skip this question.)

Cleaning $ _____
Gardener $ _____
Cook $ _____
Other (specify) $ _____

72 Enter the code of the type of outlet you or other household members typically visit to purchase haircuts.

1—Franchised Hairstyle Outlet
2—Barber Shop
3—Beauty Salon
4—Other
5—None

Women's haircuts _____
Men's haircuts _____
Children's haircuts _____

73 Indicate which of the following local recreational events you have attended over the past year? (Check all that apply. *Report only those for which there was a charge.)

Discount movie theater _____
Amateur sporting event* _____
Amateur live theater/concert* _____
Fairs/festivals* _____
Full-price movie theater _____
Professional sporting event _____
Professional live theater/concert _____
Amusement Park _____

About Medical Services

74 Enter the code of the statement which best describes where you and other household members go to obtain the following medical services.

Code and Reason

1—I don't require or haven't needed this medical service.
2—The medical facility is within normal everyday driving distance (i.e., is located in the general area in which I live).
3—The medical facility is outside my area and requires a trip of one or more days by car.
4—The medical facility is outside my area and must be reached by plane, boat, train or other forms of transportation.

Dental services _____
Dental surgery _____
Optical services _____
OB/GYN services _____
Prenatal services _____
Midwife services _____
Medical examination _____
Diagnostic tests (e.g., EKG) _____
Outpatient treatment (e.g., dialysis) _____
Outpatient therapy (e.g., PT) _____
Non-surgery hospitalization _____
Surgery hospitalization _____
Emergency room treatment _____

About Transportation

75 How many licensed cars, light trucks, or light vans do you own? Enter zero if you own none.

_____

(Do not report motorcycles, motor homes, commercial vehicles, or other special use vehicles.)

If you answered zero to the previous question, skip to question 97. If your answer is greater than 1, answer questions 76 through 96 as they apply to the vehicle you personally use most frequently.

76 What is the model year of your vehicle? [19]

77 Enter the code of the make of your vehicle from the list below. [ ]

01—Acura
02—Alfa Romeo
03—AMC
04—Audi
05—BMW
06—Buick
07—Cadillac
08—Chevrolet
09—Chevrolet Geo
10—Chrysler
11—Daihatsu
12—Dodge
13—Eagle
14—Fiat
15—Ford
16—GMC
17—Honda
18—Hyundai
19—Infiniti
20—Isuzu
21—Jaguar
22—Jeep
23—Lexus
24—Lincoln
25—Mazda
26—Mercedes-Benz
27—Mercury
28—Merkur
29—Mitsubishi
30—Nissan
31—Oldsmobile
32—Peugeot
33—Plymouth
34—Pontiac
35—Porsche
36—Range Rover
37—Renault
38—Saab
39—Saturn
40—Sterling
41—Subaru
42—Suzuki
43—Toyota
44—Volkswagen
45—Volvo
46—Yugo
47—Other (specify)

78 Enter the code which best describes your vehicle from the list below.

1—Minicompact car
2—Subcompact car
3—Compact car
4—Intermediate car
5—Full size car
6—Luxury car
7—Sports/specialty car
8—Compact passenger van
9—Compact cargo van
10—Full size passenger van
11—Full size cargo van
12—Compact pickup truck

13—Full size pickup truck
14—Sport utility/Jeep
15—Compact utility vehicle
16—Full size utility vehicle

79 Number of cylinders?

80 How did you obtain your vehicle?

1—Purchased new
2—Purchased used
3—Leased
4—Other (specify.)

81 If purchased, enter the purchase price. (Do not include trade-in.)

If leased, enter the *monthly* lease price. $[ ]

82 In what city/town and state did you make the purchase?

City
State

83 Average number of miles you put on this vehicle each year?

84 If you financed your vehicle, what was the approximate down payment percentage?

(If no down payment, enter zero. If not financed, leave bank and skip to question 86.)

85 Interest rate?

Loan term? months

Percent

86 Indicate which of the following items are included on your vehicle (Check all that apply.)

Air conditioning
Automatic trans.
Aux. heater
Aux. oil radiator
Battery heater
Engine block heater
Oil pan heater
Heavy-duty battery
Heavy-duty suspension
Rear window defogger
Paint sealant
Rustproofing
Performance tires
Snow tires
Studded tires
Tire chains
Extra rims (wheels)
Snow plow
4-wheel drive option
Other (specify)

87 How many years do you generally retain your vehicles?

1—Less than 2 years
2—2 to 3 years
3—4 to 5 years
4—6 to 7 years
5—8 to 9 years
6—9 to 10 years
7—10 to 11 years
8—More than 11 years

88 Which best describes the physical condition of roads on which you typically drive?

1—Roads are mostly paved and in good repair
2—Roads are mostly paved and in moderate repair
3—Roads are mostly paved and in poor repair
4—Many roads are not paved

89 Which best describes the terrain on which you typically drive?

1—Mostly flat
2—Modest inclines
3—Many steep inclines

90 How long do your tires generally last?

1—Less than 10,000 miles
2—10,000 to 20,000 miles
3—20,000 to 30,000 miles
4—30,000 to 40,000 miles
5—40,000 to 50,000 miles
6—50,000 to 60,000 miles
7—More than 60,000 miles

91 What is the insurance liability limit on your vehicle?

$

(e.g. $10,000/$40,000 means $10,000 per person or $40,000 per accident.)
(If not insured, skip to question 95.)

92 What is your comprehensive deductible?

$

(If you do not have comprehensive coverage, leave blank. If no deductible, enter zero.)

93 What is your collision deductible?

$

(If you do not have collision coverage, leave blank. If no deductible, enter zero.)

94 What is your total annual auto insurance premium?

$

95 Enter the number of times you have performed or had performed the following maintenance/repair services on your vehicle in the last two years.

	Times
Changed oil	
Changed trans. fluid	
Tune up	
Radiator flush/fill	
Winterization	
Radiator hose	
Fan/drive belts	
Exhaust system work	
Headlight alignment	
Headlight replacement	
Brake work	
Shock absorbers	
Wheel alignment	
New battery	
Windshield repair	
Windshield replacement	
CVJ boot replacement	
CVJ repair/replacement	

96 Which level of gas station service do you commonly select?

1–Self-service
2–Full-service

About K–12 Private Education

97 Are any members of your household currently attending a private or parochial elementary school or private or parochial secondary school? (If no, enter 'N' and skip to question 99.)

Y/N

98 Enter the grade levels of the children attending these schools and the code that best describes the location of the school. (Enter 'K' as grade level for kindergarten. Do not report children in preschool.)

Code and Location

1—The school is located about the same distance from my home as public schools in the area.
2—The school is located further from my home than public schools but not outside the metropolitan area.
3—The school is located outside the metropolitan area but is within daily commuting distance.
4—The school is not accessible within daily commuting distance.

	Grade	Code
Child 1		
Child 2		
Child 3		
Child 4		
Child 5		
Child 6		

About Higher Education

99 How many members of your household currently attend a school beyond the high school level?

100 Which of the following descriptions apply to the school(s) you and/or members of your household attend?

(Check all that apply.)

Private
Public
In-State
Out-of-State
Trade School
Technical School
Junior College
College/University
Other

101 Please list the school name, location and degree program that you and/or members of your household currently attend and enter the code that best describes the main reason that the school was selected.

Code and Reason Selected

1—Program not offered within the area
2—Reputation of the school
3—Quality of the program
4—Personal preference
5—Other (specify)

School	Location	Degree program	Code

102 How many round trips do you and/or members of your household make to and from school(s) outside your area each year?

round trips _____

About Vacation Travel

103 Enter the code that best describes how often you and/or members of your household travel outside your rea for recreation, vacation, or family visits?

_____

(Do not include weekend trips to the beach, lake, mountains, etc. Also, do not include trips made primarily for business, shopping, medical, or educational purposes.)

Code and Frequency

1—More than twice a year
2—Twice a year
3—Once a year
4—Once every 2 to 3 years
5—Once every 4 or more years
6—Never

104 Enter the code of the type of vacation travel you most frequently use?

_____

1—Automobile
2—Airlines
3—Bus
4—Train
5—Ship/Ferry
6—Other (specify) .

105 Enter the code that best describes where do you typically go?

_____

Code and Location

1—Another location within your state or nonforeign area.
2—Location within another state or nonforeign area.
3—Foreign area.
Please specify the location: _____

Comments Section

Please provide additional comments or remarks you would like to include in your survey. You may use the space below, the back of this survey, and/or separate sheets of paper as you wish.

_____

_____

_____

Thank you for your help!

Paperwork Reduction Act Information

You may be allowed time at work to complete this questionnaire. If so, you should coordinate this with your supervisor. It may be necessary, however, to obtain information or complete all or part of this questionnaire outside of your normal work hours. The public burden for the non-work time necessary for this collection of information is estimated to vary from 10 to 50 minutes per respondent. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Reports and Forms Management Officer, U.S. Office of Personnel Management, 1900 E Street NW., CHP 500, Washington, DC, 20415; and to the Office of Management and Budget, Paperwork Reduction Project (3206–XXXX), Washington, DC 20503.

[FR Doc. 92–14407 Filed 6–19–92; 8:45 am]

BILLING CODE 6325-01-M

Request for Expedited Clearance of OPM Form 2809–EZ1

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1980 (title 44, U.S.C., chapter 35), this notice announces a request for an expedited clearance of a revised information collection. OPM Form 2809–EZ1, Enrollment Change and Brochure Request, is used only at Open Season to request an enrollment change, insurance plan brochures and other informational materials. If OPM Form 2809–EZ1 is used to request plan brochures, an OPM Form 2809–EZ2 is furnished to the enrollee for use if a plan change is desired.

Approximately 127,913 OPM Forms 2809–EZ1 are completed per year. Each form takes approximately 30 minutes to complete. The annual burden is 63,957 hours.

A copy of the proposal is appended to this notice.

DATES: Comments on this proposal should be received within 3 calendar days from the date of this publication. OMB will act upon this clearance within 4 calendar days after the close of the comment period.

ADDRESSES: Send or deliver comments to

Lorraine Dettman, Chief, Operations Support Division, Retirement and Insurance Group, U.S. Office of Personnel Management, 1900 E Street, NW., room 3349, Washington, DC 20415.

and

Joseph Lackey, OPM Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, NW., room 3002, Washington, DC 20503

FOR INFORMATION REGARDING ADMINISTRATIVE COORDINATION—CONTACT: Mary Beth Smith-Toomey, Chief Administrative Management Branch (202) 606–0623

U.S. Office of Personnel Management.

Constance Berry Newman,

Director.

The content of draft OPM Form 2809–EZ1 is set out below:

Draft OPM Form 2809–EZ1

Revised October 1992

Previous editions are not usable.

Federal Employees Health Benefits Program

United States Office of Personnel Management

For use by CSRS/FERS Annuitants to Change Enrollment or to request additional information

Form Approved: OMB No. 3206–0201

Section 1—Address Correction

{ } Address Change. If your permanent mailing address as shown to the right is incorrect, darken the Address Change circle and make the necessary corrections in the space provided below.

Street Address

City, State and ZIP Code

County (if not United States)

OPM Use Only: { } E { }□ L { } NS { } T { } CLAIM NUMBER:

Section 2—Open Season Action Request—You may either change your FEHBP enrollment or request information. You may not do both on this form. If you are satisfied with your present FEHB coverage, do not return this form

{ } Enrollment Change

I want to change my health benefits enrollment and do not need additional information. Please change my coverage in my current plan or change my enrollment to the plan I have selected in Section 3 below for the following type of coverage:

{ } Self Only
{ } Self and Family

Information (You may make more than one selection in this Section)

{ } I do not want health benefits coverage. Send me the form necessary to cancel my health benefits coverage effective December 31, 1992. Note: Your enrollment will not be canceled unless you sign and return the confirmation form.

{ } My annuity isn't big enough for the coverage I want. Send me information on how I may mail premiums directly to OPM.

{ } I need more plan information before I decide. Send me the health plan brochure(s) for the plan(s) I have selected in Section 3 below. (You may choose up to 5.)

Section 3—Plan Choices—(Plan Brochure Requests, choose up to FIVE: Enrollment Change Choose ONE) Darken the circle BETWEEN the enrollment code and the plan you choose.

This form is individualized for each annuitant based upon their geographical location.

Government Wide Plan
Fee-for-Service—Open Plans
Fee-for-Service—Restricted Plans
Prepaid Plans:
Prepaid Plans:

Section 4—Signature (You Must Sign and Date this form)

Signature (Must be signed by the addressee or by an OPM-approved representative)
Date
Telephone number (include Area Code)
{ }

[FR Doc. 92-14583 Filed 6-19-92; 8:45 am]

BILLING CODE 6325-01-M

Privacy Act of 1974: Publication of Proposed Change to a System of Records

AGENCY: Office of Personnel Management.

ACTION: Notice: Proposed amendment to a record system.

SUMMARY: This notice proposes amendments to one system of records, OPM/Internal 5, Pay, Leave and Travel.

DATES: The proposed action will be effective without further notice on July 22, 1992, unless comments are received that would result in a contrary determination.

ADDRESSES: Send comments to John F. Siegrist, Jr., Assistant Director for Procurement and Administrative Services; Administration Group; Office of Personnel Management; 1900 E St., NW., Washington, DC 20415.

FOR FURTHER INFORMATION CONTACT: Ms. Karen M. Dyson, Office of Procurement and Administrative Services, Office of Personnel Management, (202) 606-2220.

SUPPLEMENTARY INFORMATION: Public Law 101-509, Title IV-General Provisions Section 639, 104 Stat. 1478 (1990) permits Federal agencies to participate in any program established by a State or local government that encourages employees to use public transportation. The Office of Personnel Management is establishing a fare subsidy program for its employees. Employees who qualify will receive partial reimbursement for commuting expenses. Pursuant to the provisions of the Privacy Act, the following proposed amendments are necessary for information collection and maintenance of the fare subsidy program records. These changes to OPM/Internal-5, Pay, Leave and Travel records, are administrative in nature, and are not within the purview of the provisions of 5 U.S.C. 552a(r). OPM Internal 5 was last published on February 5, 1990, 55 FR 3801. The specific changes to the notice being amended are set forth below.

U.S. Office of Personnel Management,

Constance Berry Newman,

Director.

1. Under OPM/Internal 5, Categories of Records in the System: At the end of the paragraph, remove the last word "and," and add, "and fare subsidy program."

2. Under Authority for Maintenance of the System: At the end of the last paragraph, remove the last word "and," and add, Pub. L. 101-509.

[FR Doc. 92-14584 Filed 6-19-92; 8:45 am]

BILLING CODE 6325-01-M

OFFICE OF SCIENCE AND TECHNOLOGY POLICY

Meeting of the President's Council of Advisors on Science and Technology

ACTION: Notice of meeting.

SUMMARY: The President's Council of Advisors on Science and Technology will meet on July 9-10, 1992, in the Conference Room, Council on Environmental Quality, 722 Jackson Place, NW., Washington, DC. The meeting will begin at approximately 9 a.m. on Thursday, July 9, 1992, with four substantive agenda items to be discussed and the Thursday session ending at approximately 5 p.m. On Friday, July 10, 1992, the meeting will begin at approximately 9 a.m. with two substantive agenda items to be discussed with the session ending at approximately 12 noon on Friday.

TYPE OF MEETING: Open and closed.

AGENDA: The Hon. William Reilly, Administrator, Environmental Protection Agency, will make a presentation on the United Nations Conference on Environment and Development (UNCED) during the Thursday morning session. In addition, a status report on Science and Technology Cooperation among Industrialized Nations will be presented by a representative of the Federal Coordinating Council for Science, Engineering and Technology (FCCSET). During the Thursday afternoon session, Council members will discuss the Health of U.S. Colleges and Universities Project and the draft report on Mathematics and Science Education. These Thursday sessions of the Council will be open to the public.

On Friday, July 19, 1992, the Council will go into closed session. Areas of discussion in the closed session include reports on Megaprojects in the Sciences, and Bioscience & Biotechnology. These protions of the meeting will be closed to the public, pursuant to title 5, U.S. Code, section 552b(c) (4), (6) and (9)(B).

Persons wishing to attend the open portion of the meeting are requested to contact Ms. Ann Barnett, (202) 395-4692, prior to 3 p.m. on June 3, 1992. Ms. Barnett is available to provide specific information regarding time, place and agenda.

Dated: June 15, 1992.

Dr. Vickie V. Sutton,

Assistant Director, Office of Science and Technology Policy.

[FR Doc. 92-14519 Filed 6-19-92; 8:45 am]

BILLING CODE 3170-01-M

SECURITY AND EXCHANGE COMMISSION

[Release No. 34-30802; File No. S7-14-92]

Report of the Bachmann Task Force on Clearance and Settlement Reform in U.S. Securities Markets

AGENCY: Securities and Exchange Commission.

ACTION: Request for comments.

SUMMARY: The Bachmann Task Force on Clearance and Settlement Reform in U.S. Securities Markets ("Task Force") has submitted to the Chairman of the Securities and Exchange Commission ("Commission") a report of its recommendations for improving the safety and soundness of the clearance and settlement system used in U.S. securities markets. The

recommendations concern shortening the settlement cycle for transactions in corporate and municipal securities and would affect all participants in the securities industry, including broker-dealers, individual and institutional investors, and corporate and municipal issuers. This release invites public comment on the report and recommendations.

DATES: Comments should be received on or before September 21, 1992.

ADDRESSES: Interested parties should submit three copies of comment letters to Jonathan G. Katz, Secretary, Securities and Exchange Commission, Mail Stop 6–9, 450 Fifth Street, NW., Washington, DC 20549. Comments should refer to File No. S7–14–92. The Commission will make all comments available for public inspection and copying at its Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549.

FOR FURTHER INFORMATION CONTACT: Sonia G. Burnett at (202) 272–2775, Attorney, Branch of Transfer Agent Regulation, Office of Self-Regulatory Oversight, Division of Market Regulation, Securities and Exchange Commission, Mail Stop 5–1, Washington, DC 20549.

SUPPLEMENTARY INFORMATION: The Task Force, following up on the work of the U.S. Group of Thirty Working Committee, studied the current clearance and settlement system with a view toward strengthening the safety and soundness of the clearing system. The Task Force was headed by John W. Bachmann, Managing Principal of Edward D. Jones & Co., and included representatives of other firms and entities involved in clearance and settlement.[1] The Report of the Bachmann Task Force on Clearance and Settlement Reform in U.S. Securities Markets ("Report") contains proposed recommendations and a timetable for implementation of these recommendations. The Commission is publishing the Report without its appendices for public comment. Copies of the Report, including appendices, can be obtained from the Bachmann Executive Staff, c/o National Securities Clearing Corporation, 55 Water Street, 22nd Floor, New York, NY 10041.

In the context of commenting on the Task Force recommendations, the Commission encourages commentators to address the specific Task Force recommendations, the desirable timetable for implementation of the reforms, and the potential competitive and investor safety costs if existing levels of risk in the clearance system are not reduced. The Commission solicits comment on all aspects of the Report, and particularly urges commentators to submit data and analysis supporting their conclusions.

The text of the report follows.

Dated: June 15, 1992.

Margaret H. McFarland,

Deputy Secretary.

Bachmann Task Force

May 26, 1992.

Hon. Richard C. Breeden, Chairman
United States Securities And Exchange Commission, Washington, D.C.

Dear Mr. Chairman, In response to your request for a plan to implement improvements to the U.S. Clearance and Settlement system aimed at increasing safety and soundness, I am pleased to submit, on behalf of the Task Force, the accompanying report. It represents hands-on hard work by a small group of dedicated industry leaders, experts in their fields, who were able to arrive at the consensus this report reflects. The rate unanimity this diverse group reached in its conclusions underscores, in my view, the importance of the report findings and the need for immediate discussion followed by prompt implementation.

Five factors, both individually and in combination, have changed the risk profile faced by our industry. They are:

1. The ever-increasing volume of transactions,
2. The complexity of both products and transactions,
3. The increasingly international nature of transactions resulting from active global markets,
4. The speed with which transactions today take place, and
5. A rapid increase in on and off balance sheet proprietary and contra-party credit.

It would be nice to say that these problems are limited to a few large firms, but one cannot say that. Today's markets are so interdependent that a problem in the institutional markets is simultaneously a problem to retail firms and investors as October of 1987 proved. Because all trends suggest that markets by their very nature gravitate toward greater speed, size and complexity (in search of competitive advantage), a return to yesterday is impossible. Our industry therefore must prepare for a new reality.

In examining the forces driving change in clearance and settlement, it seems clear that a discussion built around global competitiveness and/or efficiency would be divisive. One person's inefficiency is another's opportunity. Many participants don't care very much about global considerations one way or the other. Consequently, the Task Force limited its efforts to safety and soundness—issues which impact all market participants. In the process, however, I believe many of the global and efficiency issues were addressed.

In preparing this report, the group spent much time reviewing available data in an effort to quantify risk. Among the more interesting and significant observations which emerged from this process:

1. No single source exists to quantify or monitor aggregate systemic market risk. Numerous organizations including the Federal Reserve Bank of New York, Securities and Exchange Commission, Treasury Department and National Securities Clearing Corporation separately monitor facets of the market, but no one seems to be watching the market as a whole.

2. There are well known industry-wide problems for which solutions seemingly exist, but which, nonetheless, remain unresolved. For example,

A. Retail securities transactions settle with ownership conveyed on the fifth business day, but good funds are not available until one day later.

B. The Automated Clearing House (ACH) has a provision which permits rescission on wired funds for up to 60 days after transmission.

C. Firm deposits at the various clearing houses are counted as good capital. In case of failure, a clearing house can assess members up to 100% of their deposit. A mandatory assessment could throw other members into capital violation.

D. It is possible for firms and investors to be long a security in one market and short in another, i.e., "hedged". Because of the lack of communications, each market could call for added cash even through the investment has been rendered riskless. The effect would be to take liquidity out of the market at the exact moment when greater, no lesser, liquidity is needed. The withdrawal of liquidity was the single greatest risk on October 20, 1987.

E. Physical certificates are an anachronism that produces considerable friction in the clearance and settlement system. Today's most conservative investors buy products including CDs, Treasury and U.S. Government Agency Securities, Tax Exempt Bonds, and mutual funds, none of which are available in certificate form. Proof of ownership in non-certificated forms can just as satisfactorily be made available for all securities. Consequently, the need to provide certificates should not be permitted to stand in the way of increasing the safety of the markets.

F. Although verification of transactions by institutions can and should easily be accomplished immediately, present rules do not put a limit on the number of days an institution is allowed. A simple program can make this process interactive to even the smallest institution able to afford a personal computer.

3. The equation TIME = RISK became an inescapable truth as we processed the

[1] In addition to Mr. Bachmann, the members of the Bachmann Task Force are: David M. Kelly, President and Chief Executive Officer, National Securities Clearing Corporation; Richard G. Ketchum, Executive Vice President, National Association of Securities Dealers; John F. Lee, President, New York Clearing House; Gerard P. Lynch, Managing Director, Morgan Stanley and Company Inc.; James J. Mitchell, Senior Executive Vice President, Northern Trust Company; Richard J. Stream, Managing Director, Piper Jaffray and Hopwood and Company; and Arthur L. Thomas, Senior Vice President, Merrill Lynch and Co., Inc.

information. Indeed, wherever we went, market practitioners and regulators in one way or another spoke of decreased processing time as a risk reduction tool. Tools currently are available to significantly reduce transaction processing time. The Task Force's recommendation that these tools and processes be used is hardly revolutionary. Rather, it is part of a much greater continuum by which over the years, as technology permitted, the industry has embarked on steps that increase market safety. Examples would include National Securities Clearing Corporation and The Depository Trust Company.

In preparing this report, the Task Force fortunately was able to draw on the good work of many others. The Federal Reserve Bank of New York, the staff of the Board of Governors of the Federal Reserve System in Washington, the Securities and Exchange Commission, NSCC, DTC and the New York Clearing House, all made information available. The G–30 U.S. Working Committee, a number of its sub-committees, and the Securities Industry Association, all provided specific recommendations and supporting materials. Much of our work was simply collating and sequencing the results of their efforts.

The Task Force hopes that this report will be a catalyst to a discussion and prompt implementation of these recommendations. The unity of the group is, as I suggested earlier, significant. Among the key recommendations in the report are:

1. *Shorten the settlement cycle.* If time equals risk, then less time between a transaction and its completion reduces risk. A shorter settlement cycle will also uncover potential problems sooner, before they mushroom or begin to cascade throughout the industry.

2. *Revise the ACH system.* If retail trades must settle more quickly, then the wiring of funds to and from customers should be a practical, inexpensive and reliable alternative. Steps are currently being taken to eliminate the rescission aspect from the settlement process.

3. *Require an interactive ID process.* To permit days to pass before verifying an institutional transaction is as much of an anachronism as the physical certificate. All trades should be confirmed by T+1. Requiring all institutional market participants to immediately verify their transactions would reduce settlement risk materially.

4. *Include Tax-Exempt Bonds.* Municipal bonds are an important part of the U.S. securities market, and as such should be included in this effort, though any delay in the implementation timetable for the recommended changes should not impact the date for implementation for corporate securities.

5. *Settle all transactions among financial intermediaries and between financial intermediaries and their institutional clients in book-entry form only and pay for them in same-day funds.*

6. *Make all new securities depository eligible.* Today all but a very few securities can be eligible for deposit in a depository. Such eligibility should be mandatory.

7. *Implement or expand cross-margining.* If available data is organized in a more useful way between and among markets and clearing agencies and cross-lien agreements are arranged, clearing agencies should be able to see evidence of hedging and thus be able to set credit requirements accordingly. This enhancement can have a profound effect on the liquidity of key market participants at critical times.

8. *Monitor all market activity.* Today, data about markets is fragmented though interdependencies increase. Information on the financial markets should be gathered, examined, and made publicly available so all interested parties can better understand risks.

9. *Be prepared to streamline the handling of physical certificates.* The desire of individual investors or institutions to hold physical certificates need not slow down an accelerated settlement process. Because the trend is toward fewer and fewer investors taking physical delivery of certificates, we have come to the conclusion that it is not necessary to immobilize certificates at this time. However, should certificate processing prove a barrier to implementation of these recommendations, then, as a minimum, investors holding securities should be required to deliver them before entering a sell transaction.

10. *Monitor flipping.* "Flipping" is the practice of selling into an underwriter's syndicate bid. It is a violation of underwriting agreements and can destabilize a public offering. Flipping presently is being monitored through delivery of physical certificates. The ability to monitor this practice should not be lost in a certificateless environment.

Mr. Chairman, you have provided our idustry with a rare and golden opportunity—namely, to help shape the inevitable change which is now clearly visible on the horizon. Although no decision will be embraced by everyone, I sense in our industry a rising expectation that now is the time to conclude the discussion and to act. We on the Task Force are proud to be a part of this process; we are enthusiastic about our product; and each of us is prepared to do our part in implementing the recommendations contained in the accompanying report. If the recommendations in the report are followed, the project will be complete in mid–1994 . . . July 1 to be exact.

Sincerely,

John W. Bachmann
Chairman
Richard G. Ketchum
James J. Mitchell
John F. Lee
Richard J. Stream
David M. Kelly
Gerard P. Lynch
Arthur L. Thomas

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Formation of the Task Force

The Task Force was formed in November 1991 to address the issue of safety and soundness of the clearance and settlement system in the United States securities markets and to determine what changes are necessary to achieve a safer and more efficient system. The Task Force, operating under the premise that there are universal benefits to be gained from increasing the safety and soundness of the clearance and settlement system and reducing systemic weakness in the present structure that could pose a threat to both markets and participants, met biweekly to gather quantitative information and review expert opinion on risk management and to hear presentations on and evaluate current industry projects that would affect clearance and settlement.

The Task Force began its study of the clearance and settlement system by examining the nature of the markets that it serves.

The Changing Markets

Incredible strides in technology, automation and data communications over the past 20 years have changed the complexion and structure of the financial markets dramatically. Not only have the markets grown considerably in size, but previously local markets are now tightly linked with other domestic markets as well as with markets abroad. Once self-contained markets have evolved into multi-product, multi-user, global markets, representing enormous underlying market values, that are interrelated through common participants.

To begin, the financial industry has witnessed extraordinary growth in U.S. equities, options and futures markets in the past decade. The equities markets were by far the fastest growing of these markets with share volume on the New York and American Stock Exchanges, National Association of Securities Dealers Automated Quotations and regional exchanges quadrupling from 21,107 million shares in 1980 to 85,062 million shares in 1989. Futures contracts on U.S. commodities markets tripled during the same time period. Ninety-two million futures contracts on U.S. commodities markets were traded in 1980 while 267 million contracts were traded in 1989 with futures on financial products experiencing the fastest growth. Options activity more than doubled with total options contracts traded on U.S. exchanges increasing from 96.7 million contracts in 1980 to 227 million in 1989. Similar to the futures market, new options products grew at the fastest rate.

Further, a growing number of firms participate in more than one domestic market. An indirect measure of this is available through a review of the

common database maintained by the securities and futures industry that showed that as of November 1991, 593 firms had direct clearing or settlement relationships with more than one clearinghouse or depository, not including affiliates. In addition, there were 127 common clearing members between the cash market and The Options Clearing Corporation (OCC) as well as 29 firms who maintain clearing relationships both in the cash and futures markets. Every clearinghouse or depository in the United States has some members who have clearing relationships at other domestic clearinghouses or depositories.

Moreover, the complexity of the markets has changed as well with the continued growth of derivative and synthetic products and bilateral markets such as foreign exchange and swaps. Foreign exchange trading in the United States is estimated to amount to $129 billion per day while in 1990, the outstanding national value of interest rate and currency rate swaps at any point in time was estimated to be close to $3 trillion.

In addition, the markets have become more global. In 1980, U.S. investors purchased and sold about $17 billion of non-U.S. equities. This number increased twelve-fold to over $219 billion annually by the close of the decade. Moreover, in the United States today there is approximately one dollar of international equity trading for every five dollars of domestic activity. The growth in ADR trading volume in U.S. markets, which increased by 20% from 1990 to 1991, is yet another example of the expansion of international linkages. An example of how global our investment community has become is that on October 28, 1991, TELMEX (Telefonos de Mexico), one of over 100 foreign listings on the New York Stock Exchange (NYSE), was the most actively traded stock that day.

With over 2,000 companies outside the U.S. eligible for listing on the NYSE alone, it is apparent that the international composition of our "domestic" markets can only increase. On the derivative side, the advent of contracts denominated and settled in foreign currency and international over-the-counter derivative markets further illustrates the degree to which globalization has reached into our marketplace.

The globalization and increase in the size and complexity of the markets that has occurred over the past decade presents new concerns to the industry. It is not possible to separate the retail market from the institutional, or the domestic market from the international. A broker/dealer for a retail customer may also be engaged in proprietary foreign exchange trading. The counter-party to an individual investor buying a corporate security may be an institution heavily involved in the swap or derivative markets. In addition, hedges today often involve multiple products in multiple markets. The markets ultimately are all bound together; therefore, no one in the markets, including retail investors, is immune to the risk presented by the complexity, speed and volume of ever-changing markets. The market break in October 1987 provides an example of this potential vulnerability as referenced in the Report of the Presidential Task Force on Market Mechanisms in which the Presidential Task Force concluded, "Nonetheless, that the market break was intensified by the activities of a few institutions illustrates the vulnerability of a market in which individuals directly own 60 percent of the equities." As pointed out by E. Gerald Corrigan, President, Federal Reserve Bank of New York, in his remarks before the Money Marketeers of New York University in June 1990:

> As I see it one cannot help but conclude that the risks in the financial system are greater today than they were in the past, if for no other reason than the fact that the speed, value, volume and complexity of financial transactions create elements of interdependencies and linkages on a truly global scale that are different in degree, if not kind, from anything we have seen in the past.

We cannot roll back to a more simplistic past. The U.S. securities industry must prepare for the reality of the increased complexity of products and transactions, increased international dependency resulting from more active global markets and the greater risk that results from the interdependencies of the markets.

Background of Clearance and Settlement Reform

In the period beginning at the close of trading on Tuesday October 13, 1987, and ending at the close of trading on October 19, 1987, the Dow Jones Industrial Average declined by almost one third representing a total loss in the value of outstanding U.S. stocks of approximately one trillion dollars. Stunned by these events, the federal government and the securities industry diligently studied the events and in the resulting reports, Report of the Presidential Task Force on Market Mechanisms and the Interim Report of the Working Group on Financial Markets, proposed plans of action that would increase the safety and soundness of the U.S. financial systems and reduce systemic risk as well as enhance global competitiveness and increase efficiency.

And, on an international level, the Group of Thirty, concerned with the international financial system, initiated a project that resulted in nine recommendations to improve the state of risk, efficiency and cost in the world's clearance and settlement systems.

In 1992, four years after these reports were released, the agenda for change in the clearance and settlement system remains largely unrealized. The goals of the Report of the Presidential Task Force on Market Mechanisms, the Interim Report of the Working Group on Financial Markets and the Group of Thirty recommendations came to mean different things to different participants in the industry with some seeing them as an opportunity for substantial benefit at a small cost while others believed their implementation would require much sacrifice with little gain.

The Task Force believes that the industry has not totally focused on the critical point that systemic weakness in the clearance and settlement process leaves the securities industry vulnerable not only to risk from within the U.S. securities markets but to risk from derivative and unregulated international dealer markets as well. In this modern trading environment, the Task Force believes that the exposures associated with the time period between execution and settlement should not be ignored. The Task Force believes the profits made through the inefficiencies of the present system do not offset the potential costs should the industry experience a major failure in the clearance and settlement system.

While focusing primarily on risk reduction in the clearance and settlement process, the Task Force recognizes that improved clearance and settlement procedures may also permit many firms to identify opportunities for increased global competitiveness or enhanced efficency in domestic operations. The Task Force concluded that the opportunities in the areas of global competitiveness and efficiency are important by-products of adopting changes in the clearance and settlement system to reduce risk.

Findings of the Task Force

Because the Task Force believes that improving the safety and soundness of the securities market is a critical issue, we reevaluated the safety and soundness of the present clearance and settlement system and a host of risk reduction mechanisms, as well as several mechanisms that would increase

the efficiency of the clearance and settlement process, in terms of their potential benefits and practicality of implementation. Based on our evaluation of the system, the Task Force concluded that:

"Time equals risk" in the financial markets and the safety and soundness of the U.S. securities market can be substantially improved by shortening the settlement cycle for corporate securities to T+3 by mid 1994. For consistency of settlement in the domestic securities markets, the Task Force also recommends that the municipal securities market adopt a T+3 settlement cycle as well; however, any delay in the implementation timetable because of the unique attributes of the municipal securities market should not impact the implementation date for corporate securities. The system and legal initiatives necessary to accomplish T+3 settlement for corporate and municipal securities should serve as a stepping stone to further reductions in settlement periods over time as technology and systems permit. Critical to the Task Force's recommendation is our conclusion that enhancements to existing affirmation and payment systems are presently being implemented which will permit a shorter settlement cycle without imposing undue costs on broker/dealers or institutional and public investors.

The Task Force believes that the recommended changes in the clearance and settlement system outlined in detail in the remainder of this report should serve as a platform for further risk reduction efforts in the securities industry. Implementation of these changes are part of the natural evolution within the securities industry to increase the safety and soundness of the clearance and settlement system. Moreover, we strongly believe that these changes can be implemented by the first quarter of 1994. Ultimately all markets and market participants are potential victims to risk from within the system as well as from outside; therefore, the Task Force believes that recognized risk reduction measures in the clearance and settlement process should be pursued to increase safety and soundness.

Deliberations of the Task Force

Risk

The risk environment for securities firms in the United States and throughout the world is dramatically different than it was ten years ago. Today, firms generate far greater revenue from proprietary trading than in the past. Moreover, the products traded and strategies used are more complex. In this new environment, the securities clearance and settlement system is exposed to several sources of risk including market risk, participant or credit risk and external risk such as a domestic or international event.

While the securities clearance and settlement organizations are designed to deal with risks arising from within the securities market, they are less protected against disruptions from other organized markets or disruptions caused by an outside event. Thus a disruptive external event or failure in one of the other markets could have a domino effect in the financial industry and significantly impact the exposure of participants in the securities market. In other words, any participant in the securities market may become a victim. Moreover, there is sufficient fragility in the present structure of the world's financial markets to warrant concerns of such a chain reaction as indicated in the testimony of Alan Greenspan, Chairman, Board of Governors of the Federal Reserve System, and E. Gerald Corrigan, President, Federal Reserve Bank of New York, before the Senate Committee on Banking, Housing and Urban Affiars on two separate occasions:

The process of unbundling financial risk is a factor boosting the volume of financial transactions and hence increasing strains on clearing and settlement systems * * * [E]lements of risk can be transferred through interest rate and currency swaps; in these cases, such shifting can lead to hedging needs or to arbitrage opportunities that result in additional transactions in markets for securities and their derivatives and to enlarged clearing and settlement volume, with attendant risks to clearing and settlement systems. Alan Greenspan, testimony before the Subcommittee on Securities of the Senate Committee on Banking, Housing and Urban Affairs, June 14, 1989. What is it about financial institutions and financial markets that creates the systemic risk problem in the first instance? * * * confidence and linkages. It is also the reason why payments, clearance and settlement systems can so easily be the mechanism through which a localized problem in the financial system can take on systemic elements. E. Gerald Corrigan, Federal Reserve Bank of New York, testimony before the Senate Committee on Banking, Housing and Urban Affairs, May 15, 1991.

The preceding quotes capture the essence of systemic risk in the financial markets. Markets, such as foreign exchange and swaps, dwarf in size more traditional equity markets. According to the Bank for International Settlements (BIS) report Survey of Foreign Exchange Market Activity released in February 1990, the estimated size of the foreign exchange market in April 1989 in the United States alone averaged, on a net turnover basis, $129 billion per day. Of this, $81 billion was in the spot market, $39.6 billion in the forward market which includes swaps, forwards and futures and $7.8 billion in the foreign exchange options market.

No comparable values for the average daily value of the U.S. swaps market appear to be available. However, the International Swap Dealers Association reported that in 1990, the value of outstanding interest rate and currency rate swaps at any point in time was close to $3 trillion. Of this, outstanding interest rate swaps totaled $2,311 billion while outstanding currency rate swaps accounted for $577 billion. Equally significant are the developing markets for equity swaps and over-the-counter derivatives which are rapidly expanding in size.

Trading in each of these markets occurs and is settled directly among contra-parties. Thus, unlike the organized markets, there is no intermediation through a clearing agency of credit or market risk. None of this is to suggest that firms presently operating in these markets are not operating responsibly; all indicators suggest that they are. Nevertheless, these markets, by their very nature, raise significant questions as to the impact of the failure of a major contra-party.

The concern raised by these markets is further underscored in remarks made before the New York State Bankers Association on January 30, 1992, in which E. Gerald Corrigan warned banks that "where it is relevant, you had all better take a very, very hard look at off-balance sheet activities, including the payments, clearance and settlement risks associated with many of those activities. The growth and complexity of off-balance sheet activities and the nature of the credit, price and settlement risk they entail should give us all cause for concern." Many of these same banks provide the payments and credit critical to maintaining liquidity in U.S. securities markets.

Furthermore, major securities firms operate in these financial markets in affiliates that are wholly unregulated or lightly regulated. Therefore, the question that begs an answer is, can a failure—operational or financial—in one of these arenas, damage the formal markets and their clearing and settlement systems?

Large financial firms are often actively involved in a number of markets; listed and over-the-counter equities, corporate and municipal debt, government securities, futures and options, mutual funds, foreign exchange and swaps. It is conceivable that if a firm experiences heavy losses in one market, say foreign exchange, its fiscal position could affect its other financial activity. If it becomes a crisis of

confidence in the financial community, other firms may be reluctant to complete their obligations to the firm and banks may be reluctant to continue financing the firm, thereby further impacting the firm's ability to continue business and to fund its business. The demise of Drexel Burnham Lambert Incorporated is a case in point. Such a crisis may also impact firms' general willingness to interact normally with others. In 1974, when Bankhaus I.D. Herstatt, K.G.a.A., was taken over by German authorities as a result of heavy losses in foreign exchange trading, Clearing House Interbank Payments System (CHIPS), the New York Clearing House's computerized system for inter-bank payments which is the primary vehicle for settling foreign exchange transactions, was affected because participating banks refused to release funds through the network on behalf of customers until covering funds arrived. This had a domino effect. Other banks failing to receive funds refused to deliver funds until CHIPS finally became gridlocked.

In the Herstatt case, a foreign bank with losses in an unregulated market created a loss of confidence and caused a significant disruption in a major payment system. During the October 1987 market crash, large margin requirements in the options and futures markets temporarily affected market participants' ability to fund their short-term financing needs. If the Herstatt crisis had occurred during a period of high equities market volatility such as October 19, 1987, the strain on the markets, clearing and settlement and payments systems would have been even greater. More or larger insolvencies would not have been unthinkable under such circumstances.

Moreover, the absence of integration of clearance and settlement for derivative and cash market products increases systemic exposure. U.S. equities, futures and options markets and their clearing and settlement systems in the United States are well organized and have established risk reduction systems whereby the organization can monitor participants' exposure, collect margins or clearing funds and act as the counter-party to every trade. They have established methods to reduce and spread risks across their market participants and, thus, are generally protected against disturbances in their markets.

As stated earlier, while these clearing and settlement organizations are designed to deal with risks produced in their markets, they are less protected against disruptions from other organized markets. The following quote from the Report of the Presidential Task Force on Market Mechanisms, January 1988, sums this issue up nicely:

> With separate clearinghouses for each market segment, no single clearing corporation has an overview of the intermarket positions of market participants. No clearinghouse is able to assess accurately intermarket exposure among its clearing members and among their customers. (page 64)

For example, if a dual equities and futures participant, as a result of losses in one market, is unable to meet its obligations in the other market, both clearing organizations may cease to act for the participant. Though two clearing organizations may informally communicate before and during the liquidation of the participant's position, there are no arrangements in place which would allow the organizations to cooperate more closely.

It is important to note that efforts in this direction have been made and potential agreements continue to be explored. OCC and the Chicago Mercantile Exchange (CME), for example, have a cross-margining agreement in place that benefits dual participants with hedged positions with the respective organizations. In the event of the insolvency of a dual participant, OCC and CME will share any losses resulting from the liquidation of the participant's hedged positions.

Also, OCC and National Securities Clearing Corporation (NSCC) recently signed an agreement that would provide NSCC with funds equal to any margins collected at OCC for options that are exercised and assigned if a dual member becomes insolvent and NSCC incurs a loss as a result of liquidating the member's transactions that resulted from the options being exercised. Other such efforts at developing agreements continue to be explored and have the support of U.S. regulators:

> To an important degree, more standardization in areas such as clearing and settlement * * * holds the promise of enchancing efficiency while at the same time strengthening market structures. Alan Greenspan, testimony before the Subcommittee on Securities of the Senate Committee on Banking, Housing and Urban Affairs, June 14, 1989.

None of the efforts under way, however, will help these clearing corporations with the risks posed by "off-exchange" markets. Clearing and settlement entities don't have access to information about participants' positions and exposures in the non-regulated markets. Without such information, these external risks cannot be factored into the organizations' risk management models. Moreover, even if clearing corporations had access to this kind of information, it is not clear that they could protect themselves against this external risk since they have no control over their participants' activity in those markets.

Further, the external risks posed by a combination of market events and domestic or international events cannot be factored into risk management models. There are any number of plausible events that, if they occurred together, would have a greater impact on the financial industry than the sum of the individual effects of those events. As an example, consider the impact on the financial industry of the following combination of events. First, the Dow Jones Industrial Average reaches 3500 points. This is followed by a series of news events that indicates there is a deepening recession and that Congressional action is likely to trigger a dramatic new inflationary wave. In response, the stock markets worldwide fall 25%, U.S. Treasuries decline 7% and the dollar falls across currencies because of U.S. inflationary concerns. Add to this the default of a major investment bank on its settlement or clearing corporation margin requirements as a result of heavy trading losses. Such a firm would presumably have substantial stock settlement obligations, enormous futures and options margin calls, a multi-billion dollar mortgage-backed book, positions in over-the-counter derivative and swaps markets with market values in the multi-billions, hundreds of thousands (or millions) of customer accounts and a wide variety of short- and medium-term secured and unsecured financings. Given these events, there is a substantial potential for other major firms, already weakened from trading and credit losses from the simultaneous market crashes, to become illiquid in the short term and fail to meet their obligations at the clearinghouse and depository. In such an environment, the willingness of a consortium of banks to provide bridge loans to the clearinghouse would not be certain. Any resulting default by the clearinghouse would have a significant impact on a wide range of smaller firms as well as a traumatic effect on the public confidence in the securities markets.

There is a temptation for many firms to dismiss the risks discussed above as relevant only to large international firms that have substantial proprietary positions. Yet this dismissal ignores the impact on all participants if a clearing agency becomes even temporarily illiquid. The resulting losses in

settlement and resulting massive fails to deliver would leave no firm unscathed. Moreover, the likey plunge in investor confidence in the financial responsibility of financial firms could have lasting effects.

Because the markets are interwoven through common members, securities clearing and settling organizations cannot avoid the domino effect of risk posed by unofficial markets or external events. What can be done, however, is to continue to limit the existing exposure within the self-contained securities clearing systems. As pointed out in the U.S. Congress Office of Technology Assessment's report Electronic Bulls and Bears, September 1990, the strength of the clearing, settlement, and payment systems * * * "must be such that market participants will have enough confidence in the robustness and integrity of the systems to avoid taking actions which could bring them down." By limiting the existing exposure in the self-contained securities systems, the systems will be better able to maintain their role of guarantors in the markets even in the event that the markets and their participants become vulnerable to a failure resulting from events initially outside the national market system.

Risk Within the Securities Clearance and Settlement System

The concept that "time equals risk", or "shorter is safer", appears to be a logical, perhaps intuitive, assumption. As long as a contract, whether for the sale of a security or the sale of a house, remains to be fulfilled, there is a possibility that one of the parties involved may default. Thus it follows that the longer it takes to complete a transaction, the greater the risk that some intervening event will occur and interfere with the intended outcome. This concept, when applied to the securities clearance and settlement process, would indicate that reducing the time between the execution of a transaction and the settlement of that transaction would reduce the exposure in the system in the event of a failure. More specifically, shortening the settlement cycle from T+5 to T+3, a recommendation originally proposed by the Group of Thirty or harmonize international settlement practices, would presumably reduce exposure in the clearance and settlement system. The Task Force, while believing that shortening the settlement cycle is a step toward international harmonization, examined the issue purely from a risk perspective.

In terms of settlement exposure, the Task Force believed that quantitative data was necessary to verify the assumption that time equals risk and commissioned NSCC to identify potential exposure at the clearinghouse in a T+5 environment and estimate the related decrease in loss exposure if the industry moved to a shorter settlement cycle.

NSCC collected market volatility data over a three-year time frame and member position data from selected dates encompassing periods of high and low market volatility. Member position data on eleven large firms, which represent 40% of the dollar value in NSCC's Continuous Net Settlement (CNS) system and 37% of the share volume, was then used to create a composite average large firm. NSCC entered the volatility and position data into a model that produced estimates of expected exposure in the event of a failure of an average large firm.

To measure market risk in the current T+5 settlement period, the market differential of each trade pending in the system on T+1, T+2, T+3 and T+4 was contrasted with the original contract price. To determine the impact of settlement on T+3, the T+3 and T+4 pending trades were removed from the model. Based on NSCC's risk assessment model, moving from T+5 to T+3 settlement reduced NSCC's CNS market risk component by 58% in the event of the failure of an average large member in a normal market.

The Task Force also asked NSCC to quantify the market risk posed by the failure of the same composite average large member during the worst downward market movement observed in the sample dates. In this worst-case scenario, NSCC's risk assessment model estimated that moving to a T+3 settlement period would reduce NSCC's market risk created by the single firm by 55%. While these figures in themselves are significant, it is important to emphasize that the actual worst-case scenario could involve far greater exposures. As noted above, the failure of a major firm may tirgger failures in the international dealer markets resulting in temporary illiquidity for a number of major clearing participants.

The Task Force concluded, based on the quantitative risk data, that reducing the time between trade execution and settlement does in fact reduce risk in the system and that the U.S. securities markets can be made safer by shortening the settlment cycle to T+3.

Shortened Settlement Versus Other Risk Reducing Alternatives

The Task Force believed that to achieve its goal of determining changes that would achieve a safer clearance and settlement system it could not limit its study solely to the risk benefits of shortening the settlement period. Therefore, the Task Force also requested that NSCC, in conjunction with its analysis of the risk exposures in T+5 and T+3 settlement cycles, evaluate the impact of implementing a daily mark-to-market of all guaranteed pending trades in its system in both a T+5 and T+3 settlement cycle.

Implementing a daily mark-to-market would reduce NSCC's market exposure to one day of potential market exposure plus the time it would take to liquidate the positions in the market. While there would be one day of potential market exposure in both a T+5 and T+3 settlement period, the total amount of guaranteed positions that would be subject to market exposure would be roughly halved in a T+3 settlement cycle. NSCC's analysis indicates that by adopting a daily mark-to-market, NSCC's average market exposure to a composite average large member insolvency would decrease by approximately 46% in a T+5 settlement period and 39% in a T+3 settlement period.

The Task Force compared the benefits of adopting a T+3 settlement cycle to implementing a daily mark-to-market in a T+5 settlement period. NSCC's average expected exposure in a T+5 settlement period with a daily mark-to-market would be 30% greater than its exposure in a T+3 settlement period without a daily mark-to-market. The data indicates that moving to a T+3 environment reduces NSCC's risk to potential market exposure more than implementing a daily mark-to-market in the current T+5 environment.

A critical feature of the risk reduction benefits of marking-to-market is payment of the mark in the event of an insolvency. NSCC's mark-to-market analysis in both the T+5 and T+3 settlement periods and the subsequent comparison of T+5 settlement with a daily mark-to-market to T+3 settlement both assume that the member paid the mark on the day of the insolvency. It is most likely, however, that in the case of insolvency, the member has not paid the mark. This being the case decreases the risk reduction benefits gained from marking-to-Market.

In addition, it is the opinion of the Task Force that a daily mark-to-market would involve all market participants including retail firms and would require constant bookkeeping and a complex payment system to move the money. The impact on firms with a substantial retail customer base would be significant. While the actual risk of simultaneous mass customer defaults

would be extremely low, the firms would continue to be marked for each position. This would place retail firms in the impossible position of either continually requiring individual customers to make mark payments or absorbing the marks. The dollar impact on major institutional participants would be enormous. Moreover, implementing a mark-to-market would drain additional liquidity out of the system unless the marks were netted across all markets. The Board of Governors of the Federal Reserve System in its study, Clearance and Settlement in U.S. Securities Markets, March 1992, noted the following about the impact of a daily mark-to-market on liquidity:

> It thereby reduces the clearing corporation's need for collateral to secure credit exposures. At the same time, however, marking-to-market may increase potential liquidity pressures on both the clearing organization and its participants. (page 15)

Based on the quantitative risk data and expert opinion, the Task Force concluded that implementing a daily mark-to-market is not currently a practical alternative and recommends that the industry shorten the settlement cycle to T+3 to further reduce systemic risk in the clearance and settlement process.

Shortening the settlement cycle is the most effective way to limit the exposure in the clearing system for corporate and municipal securities. Moreover, the Task Force believes that in the longer term, moving to settlement on T+3, which is still two days later than settlement in the derivative and government securities markets, serves as a platform for future industry discussions of further risk reduction measures such as the harmonization of settlement cycles and daily settlement times.

Obstacles to Shortening the Settlement Cycle

After determining that moving to a T+3 settlement cycle would reduce potential risk exposure in the present securities clearance and settlement system, the Task Force studied the practicality of and obstacles to shortening the settlement cycle. The Task Force concluded that the lack of an electronic payment system for retail transactions and the current affirmation process for institutional trades are the major obstacles in shortening the settlement cycle to T+3 but that these are solvable problems. The Task Force believes that current customer behavior practices should not be an obstacle to shortened settlement provided there is strong leadership from within the industry and educational efforts to address customer and account executive concerns.

Payment Systems

Research commissioned by the U.S. Working Committee of the Group of Thirty Clearance and Settlement Project showed that in the current T+5 settlement cycle, approximately 80% of funds due from retail clients for purchase transactions are available by T+3. In addition, respondents to a survey of the broker and bank community indicated that on average, 21% of retail purchase trades are settled by check delivered through the mail and that only 20% of these trades, as measured in dollar value, arrive on or before T+3. The Task Force believes that these statistics may understate the problem for small firms that rely completely on checks to send and receive customer funds.

The Task Force observed that the ability of firms to immobilize customer monies is often a function of the firms' affiliation with a consolidation account such as a Cash Management Account (CMA). Firms that do not offer a CMA-like option to their customers must rely on the receipt of transmitted funds which still occurs predominantly by check. Depending on the efficiency of the brokerage firm's processing system and the bank on which the check is drawn, checks may clear or become good funds the same day they are deposited or up to several days later. In addition, the current mail delivery time frames of the U.S. Postal Service would not facilitate a reduction in the settlement cycle. The Task Force believes that there is a growing realization within the industry that the flow of customer funds both to and from the customer should be expedited and concluded that to move to T+3 settlement requires the development and implementation of an electronic payment system as a payment option for firms and retail customers.

The Task Force reviewed the efforts already under way under the auspices of the Securities Industry Association (SIA) to use Automated Clearing House (ACH), a domestic electronic payment system used by over 22,000 banks, thrifts and other depository financial institutions on behalf of corporations and individuals, for securities transactions. The ACH system processes both debit and credit transactions allowing the initiator to collect or disburse funds electronically. In payment transactions, funds flow from an account of the originator to the account of the client. In collection transactions, the funds flow from the transaction recipient's account at the receiving depository institution for credit to the originator's account at its financial institution. Settlement normally takes place through the Federal Reserve. ACH allows for stop orders, notifications of change (change of banks or accounts), reversals and returns connected with an inability to conclude the processing which is most often for insufficient funds.

While the use of ACH as a payment mechanism for retail securities transactions does not require systems changes as long as the customer's and broker's banks participate in ACH, a diverse body of regulations governs the ACH payment system and the retail brokerage community with respect to transaction initiation, settlement, error resolution and exception processing. All depository financial institutions participating in ACH and required to comply with the operating rules of National Automated Clearing House Association (NACHA), local ACH rules and Federal Reserve Regulation E. These rules, which were promulgated by bank regulators and bank associations, do not mesh smoothly with the conventions in place in the securities industry. Therefore, the Task Force concurred with the SIA that the use of ACH in U.S. financial markets requires that these rules be amended to satisfy the requirements of the securities industry.

A joint effort at the SIA and NACHA has studied the rules regarding the use of ACH for securities transactions. For ACH to be used in the securities industry, Regulation E, which was designed to protect retail users of electronic funds transfer systems and permits retail users to rescind payment orders with some exemptions, needs to be amended so that any transaction executed through a registered broker/dealer would be exempt from rescission rights. The SIA has already undertaken steps to effect this change.

In addition to complying with Regulation E, all depository financial institutions are required to comply with the operating rules of NACHA as well as local ACH rules. Current NACHA rules allow rescission rights for unauthorized transactions. The Task Force believes that these customer rescission rights are unacceptable to the brokerage community which has long-standing, workable error resolution procedures although some firms already use ACH for securities transactions in spite of the current rescission rights. NACHA has determined that it needs to adopt a new standard entry class code that eliminates these rescission rights

before ACH is widely accepted by the securities industry as a payment alternative to checks.

While the amendment of Regulation E and the adoption of a new standard entry class code are required to make ACH a viable alternative to checks for securities transaction payments, education of the brokerage community and its customers is also necessary before ACH becomes an acceptable alternative. The Task Force believes this to be the greatest challenge because it represents a cultural change to the industry as well as to retail customers and may require broker/dealers to adjust well established, settled customer relationships. The Task Force believes that the industry, under the guidance of the SIA should plan to initiate an information and education drive to familiarize the retail brokerage community with the advantages to the firm and customer of ACH.

The Task Force believes that mechanisms that reduce the time between the execution of a transaction and the settlement finality of that transaction should be generally encouraged. ACH reduces the time between when the customer agrees to pay and the finality of that payment. Moreover, the Task Force believes that ACH, with proper revisions and with the support of a major industry educational effort, can provide an alternative payment mechanism to enable T+3 settlement. Therefore, the Task Force recommends that ACH be adopted by the industry as a standard payment practice option.

Affirmation of Institutional Trades

The Task Force also concluded that additional steps are required to provide more efficient mechanisms to permit institutional trades to settle in three days. In particular, the current affirmation process in the Institutional Delivery (ID) system cannot accommodate a T+3 settlement cycle. Brokers notify the depository of trades made by an investment manager on behalf of an institutional client. The investment manager and the client's custodian banks are notified of the trade and asked to affirm that the information is correct. In the current batch processing environment, participants receive the reports on T+1 with the goal of receiving affirmation on T+2. To move to T+3 requires that the affirmation process be completed on T+1. This can be accomplished through an interactive system whereby information is processed on receipt with reports distributed on request.

The Depository Trust Company (DTC) has proposed an interactive ID System structured to accommodate the current T+5 settlement environment. The proposed system offers an advice of correction feature, which eliminates instances of telephone notification and the need for broker/dealers to cancel and correct the confirmation, and provides systemic notification and automated affirmation of trades. The proposed system also has a trade authorization feature that permits the authorization of both affirmed and unaffirmed trades from trade date to 11:30 a.m. on T+5 and allows authorization after T+5. As noted above, DTC's proposed interactive system would process data upon receipt and distribute reports on request thereby allowing participants to be as interactive as they choose. An interactive system eliminates specific time frames for trade input, confirmation, affirmation and authorization and allows the sequence of confirmation, affirmation and authorization to vary. If ID users agree with the proposal, DTC anticipates that the interactive system will be available by early 1994 on a voluntary participation basis in either a batch or interactive environment.

Timely affirmation of institutional trades on T+1 is required to support a T+3 settlement cycle. The Task Force believes the implementation of an interactive ID system, which allows for completion of the affirmation process on T+1, will permit shortening the settlement cycle to T+3. However, the Task Force believes that if the interactive process alone proves to be insufficient to accommodate settlement on T+3, dual input by brokers and investment managers could be mandated by the SEC and self-regulatory organizations at a later date.

The Task Force views the implementation of an interactive ID system, which is critical to moving to a T+3 settlement cycle, as a step in reducing risk in the clearance and settlement system.

Summary

The Task Force believes that all the obstacles to shortening the settlement described above are solvable by modifying systems, changing established settlement practices and educating retail and institutional investors. Moreover, we believe that the necessary rulemaking and system changes can occur by the first quarter of 1994.

Further Opportunities to Enhance the Clearance and Settlement Process

The Task Force, in its evaluation of shortening the settlement cycle to improve the safety and soundness of the securities markets, identified two additional issues—reducing the use of physical certificates and adopting dual input for institutional trades—that it believes provide further opportunities for the securities industry to enhance the clearance and settlement process. While the Task Force acknowledges that reducing the use of physical certificates and dual input of institutional trades are not prerequisites to move to T+3 settlement, the Task Force believes the industry and the SEC should encourage efforts in these areas.

Reduction in the Use of Physical Certificates

The industry has encouraged the strong and continuing trend over the last decade to settle corporate and municipal securities in book-entry form in a depository environment. As of 1990, DTC alone had immobilized 63% of the total market value outstanding for equities while the number of registered certificates provided to investors and participants through DTC dropped from 16 million certificates annually in 1980 to 6 million certificates in 1990.

The Task Force believes that the physical movement of securities certificates to transfer ownership is inefficient and that immobilization should be the preferred route for U.S. corporate and municipal securities markets. The Task Force further believes that the key to automating clearance and settlement is to eliminate the delivery of physical certificates.

However, the Task Force does not propose eliminating physical certificates for those retail investors who choose to maintain their record of ownership in that form. Brokerage firms should continue to have the option of imposing fees for physical certificates and time delays they believe are warranted. While investors should continue to have the right to hold physical certificates, that right should not come at the expense of increasing the safety of the markets. Therefore, the Task Force strongly encourages the SEC to explore the possibility of requiring retail investors to return their certificates to the system before trading can occur.

Requiring that certificates be in the system before trading occurs does not eliminate certificates; however, it does eliminate the need for broker/dealers to borrow stock to meet street-side delivery requirements where customers have not delivered their securities. This requirement should reduce the use of certificates since immobilization will be less expensive as well as more convenient and safer for customers in terms of reducing the number of lost or

stolen certificates which, as estimated by the Commission represented $2.6 billion in certificates in 1990.

The Task Force recognizes that the use of physical certificates has a long-standing history in the U.S. securities markets and that requiring retail investors to return their certificates to the system before they can be sold represents a cultural change. The Task Force believes, as with adopting an electronic payment option, that an information and education drive to inform retail investors of changes in well-established retail practices is necessary to ensure a smooth implementation of such a requirement.

Dual Input of Institutional Trades

The Task Force believes that the implementation of an interactive ID system not only permits the affirmation of institutional trades on T+1, as required to shorten the settlement cycle, but also provides the opportunity to enhance the institutional settlement process by permitting dual input of trade information by brokers and investment managers. Dual input of trade information increases the certainty of the trade confirmation process between the broker and investment manager and as a result brings greater surety to the institutional settlement process. Because of the greater certainty provided by dual input, the Task Force strongly recommends that the industry and appropriate regulatory agencies work toward adopting dual input for institutional trades.

The Task Force has reviewed DTC's proposal for an interactive ID system and believes, based on consultation with experts familiar with the proposed systems that the system can be modified to accommodate dual input.

Projects in the Industry

The Task Force also reviewed a number of projects in the industry that would impact the clearance and settlement process. The Task Force strongly believes that these projects, which would further reduce risk and harmonize markets, should be encouraged.

Book-Entry Settlement

The U.S. Working Committee of the Group of Thirty Clearance and Settlement Project has recommended that settlement among financial intermediaries and between financial intermediaries and their institutional clients occur in a book-entry environment and has distributed a series of proposed rule changes that would enable the implementation of this recommendation to the appropriate organizations for review and comment. The Task Force strongly supports this recommendation.

The Task Force believes the need to implement this recommendation in the United States was made clear by the demise of Drexel Burnham Lambert Incorporated. During the workout, physical deliveries could only be made on a cash basis and were often completed on an ex-clearing basis. Those items that could be settled on a book-entry basis were largely unaffected.

The Task Force believes that the street-side book-entry settlement recommendation enjoys widespread support in the industry since it reduces risk and cost and will improve the efficiency of the street-side settlement process. Book-entry settlement is a productive change for the industry that improves the safety and soundness of the system at little or no cost to the industry. The Task Force believes that appropriate self-regulatory organizations should review the proposed rule changes and implement the recommendation as soon as practical.

Depository Eligibility for New Issues

The U.S. Working Committee of the Group of Thirty Clearance and Settlement Project has also recommended that all new corporate or municipal securities coming to market be eligible for depository processing. The Task Force supports the implementation of this recommendation. DTC reports that in the first five months of 1991, only 29 of the 11,941 new issues submitted to the Underwriting Department failed to meet DTC's eligibility criteria. Of the 29 issues, 8 were uniquely denominated bonds having a partial call feature which were rejected because DTC does not currently have a procedure for allocating called securities for such issues. The Underwriting Department at DTC believes that the remaining issues that were rejected could have been made eligible had the deadlines for bringing the issues to market been less severe.

One obstacle to achieving depository eligibility for new issues is the current use of physical certificates to track potential inappropriate trading of initial public offerings back to the syndicate during the stabilization period. This inappropriate trading, commonly known in the industry as "flipping", occurs during the new issue stabilization period when an investor sells the stock back to the syndicate or to another investor who in turn sells it back to the syndicate at the offering price. Syndicate managers rely on the certificate number to identify which member of the syndicate sold the issue to the investor who "flipped" it back to the syndicate so that they can recoup a portion of the seller's concession paid to that syndicate member.

While quantitative information on how often new issues are flipped, or traded to the syndicate at the offering price, is not readily available since initial public offerings are not always tracked particularly in a rising market, lead managers, in certain situations, may have chosen to withhold depository eligibility for certain issues because of flipping concerns. During the first five months of 1991, DTC was requested to defer the eligibility of 35 issues during the underwriting period because of flipping concerns. All of these issues met DTC's eligibility criteria.

The Task Force reviewed the research of the Flipping Focus Group of the U.S. Working Committee of the Group of Thirty Clearance and Settlement Project and its proposal for an automated tracking system that would eliminate the need for physical certificates to track issues during the underwriting period. In the proposed sub-account tracking system, DTC would establish an NSCC omnibus account for each initial public offering and an initial public offering account for each syndicate participant that collectively balances to NSCC's omnibus account. In turn, NSCC would have a sub-account tracking system to which the lead manager would provide detailed information about the initial distribution while participants in the syndicate would provide information about redistribution of the issue. Any change in a syndicate participant's position in its DTC account would be reported to NSCC's sub-account tracking system. NSCC would then notify the lead manager and syndicate participant that a possible flip occurred. Participation in new procedures to track potential flipping would be part of the "Agreement Among Underwriters" and tracking information from DTC and NSCC would be available to the lead manager upon request.

Because the use of physical certificates during the initial public offering stands in the way of achieving depository eligibility of new issues, the Task Force strongly supports the development and implementation of a solution to the flipping problem. The Task Force believes that the flipping issue cannot be a stumbling block to depository eligibility and book-entry processing and recommends that all participants in the corporate securities clearance and settlement process give serious consideration to the flipping

proposal when it is released for comment.

Same-Day Funds Payment

In addition to book-entry settlement and depository eligibility of new issues, the U.S. Working Committee has also recommended that payments among financial intermediaries and between financial intermediaries and their institutional clients be made in same-day funds. NSCC and DTC, in conjunction with the Federal Reserve Bank of New York and the SEC, are currently developing a model for a same-day funds payment system. The Task Force reviewed presentations by NSCC and DTC on the status of their design which will be released for public comment shortly.

The proposed same-day funds system is a closed, collateralized system to ensure adequate liquidity. The proposed system would not allow withdrawal of securities or the free pledge or free delivery of securities. Participants would only be able to re-deliver securities against payment. DTC has completed simulations to ensure that the proposed system can operate in a high-volume environment without gridlock as increased numbers of transactions pass through the risk management controls.

The Task Force believes that same-day funds represent a safer payment methodology that eliminates the overnight credit risk in the current next-day funds environment. The Task Force recommends that the industry support the implementation of a same-day funds payment system as one step toward harmonizing the payment process across all U.S. clearance and settlement systems and improving the efficiency of the settlement process.

Cross-margining

OCC has developed several cross-margining programs, as referenced earlier, whereby options and futures clearinghouses share position information on common clearing members and calculate the margin requirement based on the combined positions to avoid overcollateralization of the risk of intermarket hedged positions at the clearinghouse level. OCC's cross-margining programs reduce clearing system risk by substituting correlated positions for cash or cash equivalent margins and provide financing relief and settlement harmonization. The Task Force reviewed OCC's presentation on its current cross-margining arrangements and believes that OCC and relevant futures exchanges should be encouraged to continue to expand their programs.

Coordinated Payments

The U.S. Working Committee of the Group of Thirty Clearance and Settlement Project formed a Coordinated Payments Focus Group to explore corrdinating payments within securities markets with the eventual possibility of netting payments across all domestic markets. The Focus Group is in the process of defining the requirements and attributes of a netting scheme. The Task Force believes that the industry should encourage the development of a scheme that would net settlement payments, at a minimum, within the U.S. securities markets.

The Task Force believes that the industry and appropriate regulatory organizations should encourage and actively support these ongoing industry efforts.

Task Force Recommendations and Time Frames for Implementation

The Task Force believes that it has accomplished its goal of evaluating systemic risk in the current securities clearance and settlement system and determining changes that are needed to achieve safer and more efficient markets. After reviewing quantitative data and hearing expert opinion on risk in the securities clearance and settlement system, the Task Force proposes the following recommendation and time frame for implementation:

The current settlement period should be shortened to T+3 in the interest of reducing settlement exposure and increasing the safety and soundness of the securities clearance and settlement system. The Task Force believes the retail and institutional issues involved can be resolved by early 1994 allowing implementation of T+3 settlement for securities by mid 1994.

Risk in the securities clearance and settlement system has been studied and discussed by other industry participants and organizations over the past four years. The Task Force strongly believes that the industry knows what needs to be done to reduce systemic risk and understands the universal benefit to be gained from improving the safety and soundness of the securities clearance and settlement system. The Task Force believes that it is time to make the proposed recommendations for reducing risk a reality.

The Task Force recognizes, however, that there are limits to what the private sector can accomplish in terms of timing and uniformity of results. It is clear that regulatory support for these private-sector efforts is critical. The Task Force believes that the private sector working with the regulatory organizations can effectively implement these recommendations within the proposed time frames and recommends that these cooperative efforts begin as soon as possible for time equals risk—the longer the industry waits to implement these changes, the greater the potential exposure in the securities clearance and settlement system.

Acknowledgements

The Task Force would like to extend its thanks to the Federal Reserve Bank of New York, the staff of the Board of Governors of the Federal Reserve System, National Securities Clearing Corporation, the Depository Trust Company, the U.S. Working Committee of the Group of Thirty Clearance & Settlement Project and its associated Focus Groups, The Options Clearing Corporation, Municipal Securities Rulemaking Board, National Automated Clearing House Association and the Securities Industry Association for their time and contributions to the Task Force.

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[Release No. 34-30803; File No. SR-Amex-92-09]

Self-Regulatory Organizations; Amercian Stock Exchange, Inc; Order Granting Approval to Proposed Rule Change Establishing a Cabinet System for Trading Certain Equity and Derivative Securities

June 15, 1992.

On February 24, 1992, the American Stock Exchange, Inc. ("Amex or "Exchange") submitted to the Securities and Exchange Commission ("SEC" or "Commission), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") [1] and rule 19b-4 thereunder,[2] a proposed rule change to adopt new Exchange Rule 25 to establish a cabinet system for the trading of certain equity and derivative securities.

The proposed rule change, as well as Amendment No. 1, were published for comment in Securities Exchange Act Release No. 30677 (May 7, 1992), 57 FR 20538 (May 13, 1992). No comments were received on the proposal.

[1] 15 U.S.C. 78s(b)(1) (1988).

[2] 17 CFR 240.19b-4 (1991).

Currently, the Exchange has a cabinet system in place for options [3] and bonds.[4] However, there is currently no provision in the Amex rules for trading other equity securities on a cabinet basis. Under Amex Rule 170, an Amex specialist has an obligation to make a two-sided market in all securities in which the specialist is registered. Accordingly, even in the absence of public buying or selling interest, a specialist is required to bid for and offer securities for his or her own account. However, the Exchange believes that the obligation to make a two-sided market places an unjustified burden on the specialist where, for example, there is an absence of buying interest for an essentially worthless security.[5]

A procedure under new Amex Rule 25 would permit the specialist, with the approval of a Floor Governor and the concurrence of the Exchange's Member, Firm and Trading Floor Services area, to relegate an essentially worthless "designated" security [6] to a "cabinet" where the security may be bid for or offered at .001 per share, or $1.00 for 1,000 shares. The specialist would have no obligation to purchase or sell the security. Rather, buy and sell orders of securities in the cabinet would be paired against each other. In the event "cabinet" trading of an issue is no longer appropriate, as defined in Amex Rule 25, the security will revert to the regular market.[7]

Proposed Amex Rule 25 is similar to the cabinet trading procedures already provided on the Exchange for certain bonds and options. The following is the text of the proposed rule change:

Rule 25 Cabinet Trading of Equity and Derivative Securities

(a) The Exchange may designate to be traded in a Cabinet System those equity securities and derivative products which in the judgment of a Floor Governor with the concurrence of the Exchange's Member, Firm and Trading Floor Services do not warrant their retention in the specialist system. Cabinet trading under the following terms and conditions shall be available for designated securities admitted to trading on the Exchange:

(i) Trading shall be conducted in accordance with other Exchange rules except as otherwise provided herein or unless the context otherwise requires.

(ii) The specialist registered in each such designated security shall supervise the operation of the cabinet in that security.

(iii) Only limit orders priced at the rate of $1 per 1,000 shares (.001 per share) may be placed in the cabinet.

(iv) All orders placed on the cabinet shall be assigned priority based upon the sequence in which those orders are received by the specialist.

(v) All such buy (sell) orders must be submitted to the specialist in writing and the specialist shall effect all cabinet transactions by pairing such orders placed with him with sell (buy) orders received by him or represented in the trading crowd.

(vi) Specialists shall not be subject to the requirements of Rule 170 and Traders shall not be subject to any similar market making requirements in respect of orders placed pursuant to this rule. Cabinet transactions shall not be reported on the ticker.

(vii) All cabinet transactions shall be so marked and reported to the Exchange following the close of business each day.

(b) Notwithstanding the provisions of Rule 5(a), any (i) member, (ii) member organization, or (iii) other person which is a non-member broker or dealer and who directly or indirectly controls, is controlled by, or is under common control with, a member or member organization (any such other person being referred to as an affiliated person) may effect any transaction as principal in the over-the-counter market in any cabinet-designated security traded on the Exchange for a price not in excess of paragraph (a) (iii) above.

Commentary

.01 For the purposes of this rule, a "designated" security is defined as any equity or derivative security, other than a bond or option, in which there is no bid or buying interest at a price equal to or higher than the minimum price at which such a security may trade on the Exchange (currently 1/256 of $1.00).

.02 For each transaction executed by a member or member organization or affiliated person pursuant to paragraph (b) above, a record of such transaction shall be maintained by the member or member organization and shall be available for inspection by the Exchange for a period of three years. Such record shall include the circumstances under which the transaction was executed in conformity with this rule.

.03 Should buying interest develop which would cause the "designated" security to trade at or above the minimum fraction (1/256 of $1) at which securities trade on the Exchange, the security will revert to the regular trading procedures.

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(b) and 11(b).[8] In particular, the Commission believes the proposal is consistent with the section 6(b)(5) requirements that the rules of an exchange be designed to promote just and equitable principles of trade as well as remove impediments to and perfect the mechanism of a free and open market. The Commission also believes that the proposal is consistent with section 11(b) of the Act and Rule 11b–1 thereunder, which provide that the rules of a national securities exchange may permit members to be registered as specialists, subject to the requirement of maintaining fair and orderly markets in their specialty securities.[9]

As stated above, the Amex is proposing to establish a cabinet system for trading certain equity and derivative securities.[10] The Commission believes that cabinet trading provides an alternative to the traditional auction market and specialist system for securities for which there is an absence of two-sided trading interest.[11]

The Commission recognizes that Amex Rule 25 would alleviate a specialist's affirmative market-making obligations in certain illiquid issues.[12] Nevertheless, the Commission believes that it is consistent with the maintenance of fair and orderly markets to place an essentially illiquid security in the cabinet trading system for a variety of reasons. First, the Commission notes that pursuant to Commentary .01 of Amex Rule 25, a

[3] See Amex Rule 959. Cabinet trading of option contracts, also known as accommodation liquidation transactions, is intended to facilitate transactions in options series for which there is no auction market due to the absence of a bid or offer at the lowest fractional price.

[4] See Amex Rule 136.

[5] For instance, if an issue of warrants is expiring worthless, and the holder of several thousand warrants seeks to sell the warrants on the Amex, the Exchange notes that the sepcialist would be required by Rule 170 to purchase the warrants. Even at the minimum price at which transactions may be executed through Exchange systems, currently 1/256 of $1.00, the Amex noted that requiring the specialist to purchase a large number of such securities would be costly. See Amex Rule 127.

[6] See proposed Amex Rule 25, Commentary .01.

[7] See proposed Amex Rule 25, Commentary .03.

[8] 15 U.S.C. 78f(b) and 78k(b) (1988).

[9] 17 CFR 240.11b–1 (1991).

[10] Proposed Amex Rule 25, Commentary .01 defines the securities eligible for cabinet trading. Options and bonds are excluded from this definition.

[11] The Commission notes that the term "cabinet" trading originates from the use of physical cabinets in lieu of a specialist book to accept and hold orders for a security.

[12] See Rule 11b–1(a) and Amex Rule 170.

security would only be designated for cabinet trading if there is no bid or buying interest at a price equal to or higher than the minimum price at which such a security may trade on the Exchange. Accordingly, the Commission believes that cabinet trading should be limited primarily to inactive issues in which there is little market interest.

Second, the Commission believes that a cabinet trading system may help promote liquidity in the market for these securities because, even though a specialist would not be required to purchase or sell the cabinet security, the ability to trade at the cabinet price of $1.00 per 1,000 shares may stimulate accommodation transactions. Third, the procedure for administering the cabinet system proposed in Amex Rule 25 is similar to option cabinet trading systems previously approved by the Commission.[13] In the context of the cabinet trading of options, the Commission has stated that cabinet trading may facilitate the closing out of options positions in inactive, out-of-the-money and expiring option series for which there are no displayed bids or offers at the lowest fractional price per contract.[14] Finally, the Commission notes that the rule ensures that if buying interest develops (*i.e.*, if the security trades at or above 1/256 of $1.00), the security will revert back to the regular auction market trading procedures. For the above reasons, the Commission believes that the procedures contained in Amex Rule 25 are consistent with the Act and should be approved.

It Is Therefore Ordered, Pursuant to section 19(b)(2) of the Act,[15] that the proposed rule change (SR-Amex-92-09) is hereby approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[16]

Margaret H. McFarland,

Deputy Secretary.

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[13] See e.g., Amex Rule 959; Chicago Board Options Exchange ("CBOE") Rule 6.54; and New York Stock Exchange ("NYSE") Rule 759.

[14] See Securities Exchange Act Release No. 21936 (April 11, 1985), 50 FR 15258 (File No. SR-Amex-85-07). Similar to the option cabinet trading rules of other exchanges, Amex Rule 25 contains specific procedures for administration of the cabinet system. For example, pursuant to Amex Rule 25(a)(iii), only limit orders, and, pursuant to Amex Rule 25(a)(v), only written orders, will be accepted by the specialist for cabinet trading under Amex Rule 25. In addition, cabinet orders will be assigned priority based on the time sequence in which the orders are received by the specialist. See Amex Rule 25(a)(iv).

[15] 15 U.S.C. 78s(b)(2) (1988).

[16] 17 CFR 200.30-3(a)(12) (1991).

[Release No. 34-30804; File No. SR-NASD-92-21]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the National Association of Securities Dealers, Inc. Relating to Assessments and Fees on Members

June 15, 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 May 4, 1992, the National Association of Securities Dealers, Inc. ("NASD" or "Association") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the NASD. The NASD has designated this proposal as one establishing or changing a fee under section 19(b)(3)(A)(ii) of the Act, which renders the rule 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 persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The NASD is proposing to amend Section 1(d) of Schedule A to the By-Laws to increase the amount of the credit that each member receives against the amount of its annual assessment on gross income, from 50 percent to 59 percent, and to apply the credit to the entire calendar year 1992.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the SEC, the Association included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The NASD has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The NASD requires its members to pay an annual assessment fee based on gross income pursuant to Article VI of the By-Laws, as determined by Schedule A, Section 1 to the By-Laws. In preparing its annual budget, the NASD in the past estimated its gross income assessment revenue on the basis of actual member firm revenue data for the most recent completed fiscal or calendar year. In accordance with the NASD's shift from a fiscal to a calendar budget year in 1991, however, the NASD determined that member assessments should be based upon gross income reported for the calendar or fiscal year immediately preceding the NASD's calendar budget year.

The NASD sends assessment invoices to its members twice a year, once in January, and again in May or June. After final gross income reports are received, the NASD amends its second assessment invoices to reflect members' final gross income reports for the preceding calendar or fiscal year.[1] Final gross income reports for 1991 have been received from substantially all of the members, and the NASD is now proposing to increase the credit set forth in Section 1(d) of Schedule A to the By-Laws to more closely reflect the assessment revenue budgeted for 1992. This proposed rule change, therefore, amends the amount of the credit, which is currently 50 percent, to 59 percent, and applies the credit to the entire calendar year 1992.

The NASD believes that the proposed rule change is consistent with Section 15A(b)(5) of the Act, which requires, *inter alia*, that the rules of the Association provide for the equitable allocation of reasonable dues, fees, and other charges among members and issuers and other persons using any facility or system that the Association operates or controls because the assessment charge, including the assessment credit, is designed to apportion membership costs on the basis of a quantifiable standard, i.e., gross income.

B. Self-Regulatory Organization's Statement on Burden on Competition

The NASD believes that the proposed rule change will not result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

[1] See Securities Exchange Act Rel. No. 30111 (December 20, 1991), 56 FR 67343 (December 30, 1991).

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective upon filing pursuant to section 19(b)(3)(A)(ii) of the Act and subparagraph (e) of Rule 19b–4 thereunder. The NASD has designated this proposal as "establishing or changing a due, fee, or other charge" under section 19(b)(3)(A)(ii) of the Act, which renders the rule effective upon the Commission's receipt of the filing. At any time within 60 days of the filing of such rule 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 Room. Copies of such filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to the file number in the caption above and should be submitted by July 13, 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. 92–14623 Filed 6–19–92; 8:45 am]

BILLING CODE 8010–01–M

Issuer Delisting; Notice of Application to Withdraw from Listing and Registration; (American Oil and Gas Corporation, Common Stock, $.04 Par Value) File No. 1–8717

June 16, 1992.

American Oil and Gas Corporation ("Company") has filed an application with the Securities and Exchange Commission ("Commission"), pursuant to section 12(d) of the Securities Exchange Act of 1934 ("Act") and Rule 12d2–2(d) promulgated thereunder, to withdraw the above specified security from listing and registration on the American Stock Exchange, Inc. ("Amex").

The reasons alleged in the application for withdrawing this security from listing and registration include the following:

In addition to being listed on the Amex, the Company's common stock is listed on the New York Stock Exchange, Inc. ("NYSE"). The Company's stock commenced trading on the NYSE at the opening of business on May 7, 1992 and concurrently therewith such stock was suspended from trading on the Amex.

In making the decision to withdraw its common stock from listing on the Amex, the Company considered the direct and indirect costs and expenses attendant on maintaining the dual listing of its common stock on the NYSE and on the Amex. The Company does not see any particular advantage in the dual trading of its stock and believes that dual listing would fragment the market for its common stock.

Any interested person may, on or before July 8, 1992 submit by letter to the Secretary of the Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549, facts bearing upon whether the application has been made in accordance with the rules of the exchanges and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 92–14559 Filed 6–19–92; 8:45 am]

BILLING CODE 8010–01–M

[File No. 1–10916]

Issuer Delisting; Notice of Application to Withdraw from Listing and Registration; (Intervisual Books, Inc., Common Stock, No Par Value)

June 16, 1992

Intervisual Books, Inc. ("Company") has filed an application with the Securities and Exchange Commission, ("Commission") pursuant to section 12(d) of the Securities Exchange Act of 1934 ("Act") and Rule 12d2–2(d) promulgated thereunder, to withdraw the above specified security from listing and registration on the Boston Stock Exchange, Inc. ("BSE" or "Exchange").

The reasons alleged in the application for withdrawing this security from listing and registration include the following:

According to the Company, it is requesting the delisting from the BSE because its Common Stock has been accepted for trading on the American Stock Exchange, Inc. ("Amex"), and the Company does not want to maintain the additional expense of keeping its Common Stock listed on the BSE.

Any interested person may, on or before July 8, 1992 submit by letter to the Secretary of the Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549, facts bearing upon whether the application has been made in accordance with the rules of the exchanges and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 92–14560 Filed 6–19–92; 8:45 am]

BILLING CODE 8010–01–M

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Midwest Stock Exchange, Inc.

June 16, 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:

Hook-Superx, Inc.
Common Stock, $.01 Par Value (File No. 7–8611)

Franklin Quest Co.
Common Stock, $.05 Par Value (File No. 7–8612)

First USA, Inc.
Common Stock, $.01 Par Value (File No. 7–8613)

General Instrument Corporation
Common Stock, $.01 Par Value (File No. 7–8614)

Transportation Maritima Mexicana, S.A. de C.V.
Depositary Shares, Series L. (File No. 7-8615)
Transportation Maritima Mexicana, S.A. de C.V.
American Depositary Shares, Ordinary Participation Certificate (File No. 7-8616)
Macfrugal's Bargains Close-Outs, Inc.
Common Stock, $.02778 Par Value (File No. 7-8617)

These securities are listed and registered on one or more other national securities exchange and is reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before July 8, 1992, written data, views and agruments 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. 92-14556 Filed 6-19-92; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC-18783; International Series Release No. 400; 812-7890]

The Morgan Stanley Emerging Markets Fund, Inc., et al.; Application

June 12, 1992.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of Application for Exemption under the Investment Company Act of 1940 ("Act").

APPLICANTS: Morgan Stanley Emerging Markets Fund, Inc., The Brazilian Investment Fund, Inc., The Malaysia Fund, Inc., The Turkish Investment Fund, Inc., The Morgan Stanley Institutional Fund, Inc., and The Latin American Discovery Fund, Inc.

RELEVANT ACT SECTIONS: Order requested under section 6(c) of the Act for an exemption from the prohibitions of section 12(d)(3) of the Act.

SUMMARY OF APPLICATION: Applicants seek a conditional order permitting them to acquire equity and convertible debt securities of foreign issuers that, in each of their most recent fiscal years, derived more than 15% of their gross revenue from their activities as a broker, a dealer, an underwriter or an investment adviser, provided such investments comply with provisions of the proposed amendments to rule 12d3-1 under the Act.

FILING DATE: The application was filed on March 19, 1992, and amended on May 13, 1992 and May 27, 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 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 July 7, 1992, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, NW., Washington, DC 20549. Applicants: Morgan Stanley Markets Fund, Inc. and The Latin American Discovery Fund, Inc., 1221 Avenue of the Americas, New York, New York 10020; other applicants, P.O. Box 1102, Valley Forge, Pennsylvania 19482.

FOR FURTHER INFORMATION CONTACT: Robert A. Robertson, Staff Attorney, at (202) 504-2283, or C. David Messman, Branch Chief, at (202) 272-3018 (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. Morgan Stanley Emerging Markets Fund, Inc., The Brazilian Investment Fund, Inc., The Malaysia Fund, Inc., The Turkish Investment Fund, Inc., and The Latin American Discovery Fund, Inc. are each registered as a closed-end investment company under the Act. Morgan Stanley Institutional Fund, Inc., a registered open-end investment company, includes the International Equity Portfolio, the Global Equity Portfolio, the European Equity Portfolio, the Asian Equity Portfolio, and the Active Country Allocation Portfolio. Each Applicant is managed by Morgan Stanley Asset Management, Inc. (the "Adviser"), a wholly-owned subsidiary of Morgan Stanley Group Inc.

2. Applicants request that any relief given pursuant to the application applies to any other registered investment company or series thereof that in the future is advised by the Adviser or an entity controlled by or under common control with the Adviser.

3. Applicants desire to diversify further their portfolios, consistent with their respective investment objectives and policies, by investing in equity securities or convertible debt securities of foreign issuers that, in each of their most recent fiscal years, derived more than 15% of their gross revenues from their activities as a broker, a dealer, an underwriter or an investment adviser ("Foreign Securities Companies").

4. Applicants seek conditional relief from section 12(d)(3) of the Act to invest in equity and convertible debt securities of Foreign Securities Companies to the extent permitted in the proposed amendments to rule 12d3-1 under the Act. See Investment Company Act Release No. 17096 (Aug. 3, 1989).

Applicant's Legal Analysis

1. Section 12(d)(3) of the Act generally prohibits an investment company from acquiring any security issued by any person who is a broker, a dealer, an underwriter or an investment adviser. Rule 12d3-1 under the Act provides an exemption from section 12(d)(3) for investment companies acquiring securities of Foreign Securities Companies provided that these investments comply with certain conditions set forth in the rule.

2. Applicants proposed acquisition of securities issued by Foreign Securities Companies will comply with the provisions of current rule 12d3-1, except subparagraph (b)(4) thereof. Subparagraph (b)(4) of rule 12d3-1 provides that, any equity security of the issuer must be a "margin security" as defined in Regulation T promulgated by the Board of Governors of the Federal Reserve System. Regulation T permits the marginability of certain foreign securities, which are designated as "foreign margin stocks." See Amendments to Regulation T, 55 FR 11158 (Mar. 27, 1990); 12 CFR 220.2(i) and (q)(6); and 12 CFR 220.17 (a) and (c). However, because the requirements to be a "foreign margin stock" are more restrictive than the requirements for a "margin security" traded in United States, many securities issued by Foreign Securities Companies are not "foreign margin stocks," and thus are not "margin securities" under Regulation

T. See 12 CFR 220.2 (i) and (q)(6); see also 12 CFR 220.17 (a) and (c).

3. Proposed amended rule 12d3–1 would allow the acquisition of securities of Foreign Securities Companies, provided that these investments meet certain liquidity and other criteria comparable to those required by rule 12d3–1 for instruments in equity securities of United States securities-related businesses.

4. Section 6(c) of the Act provides in part that, upon application, the SEC may conditionally exempt any class of transactions from the provisions of the Act to the extent the exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicants believe that the requested exemption meets the standards of section 6(c).

Applicants' Condition

Applicants agree that the requested exemptive order will be subject to the following condition:

Applicants will comply with the provisions of the proposed amendments to rule 12d3–1 (Investment Company Act Release No. 17096 (Aug. 3, 1989); 54 FR 33027 (Aug. 11, 1989)), and as such amendments may be reproposed, adopted, or amended.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92–14561 Filed 6–19–92; 8:45 am]

BILLING CODE 8010–01–M

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Pacific Stock Exchange, Inc.

June 16, 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:

General Instrument Corporation
Common Stock, $.01 Par Value (File No. 7–8618)
Gerber Products Company
Common Stock, $.025 Par Value (File No. 7–8619)

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 July 8, 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. 92–14557 Filed 6–19–92; 8:45 am]

BILLING CODE 8010–01–M

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Philadelphia Stock Exchange, Inc.

June 16, 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:

First USA, Inc.
Common Stock, $.01 Par Value (File No. 7–8603)
First Interstate Bancorp
Depositary Shares, Pfd. Stock Series G (File No. 7–8604)
Ford Holdings, Inc.
Depositary Shares (File No. 7–8605)
Hook-Superx, Inc.
Common Stock, $.01 Par Value (File No. 7–8606)
Maxum Health Corporation
Common Stock, $.01 Par Value (File No. 7–8607)
Transportation Maritima Mexicana S.A. de C.V.
American Depositary Shares, Series L Share, No Par Value (File No. 7–8608)
Transportation Maritima Mexicana S.A. de C.V.
American Depositary Shares, Class A Ordinary Participation Certificate (File No. 7–8609)
Franklin Quest Company
Common Stock, $.05 Par Value (File 7–8610)

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 July 8, 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. 92–14558 Filed 06–19–92; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. IC–18781; 811–5656]

Prime Financial Funds, Inc.; Notice of Application

June 12, 1992.

AGENCY: Securities and Exchange Commission ("SEC" or "Commission").

ACTION: Notice of Application for Deregistration under the Investment Company Act of 1940 (the "Act").

APPLICANT: Prime Financial Funds, Inc.

RELEVANT ACT SECTIONS: Section 8(f).

SUMMARY OF APPLICATION: Applicant seeks an order declaring that it has ceased to be an investment company.

FILING DATE: The application was filed on April 27, 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 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 July 7, 1992, and should be accompanied by proof of service on 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, 4141 N. Scottsdale Road, suite 330, Scottsdale, Arizona 85251.

FOR FURTHER INFORMATION CONTACT: James M. Curtis, Staff Attorney, at (202) 504-2406, or Barry D. Miller, Senior Special Counsel (202) 272-3018 (Office of Investment Company Regulation, Division of Investment Management).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicant's Representations

1. Applicant is an open-end non-diversified management investment company that was organized as a corporation under the laws of Arizona. On October 7, 1987, applicant registered under the Act and filed a registration statement under the Securities Act of 1933 to register an indefinite number of shares of applicant's common stock. Applicant's registration statement was declared effective on June 2, 1988, and applicant commenced its initial public offering on June 3, 1988.

2. As of March 31, 1990, applicant had total net assets of $523,809.48 comprising 70,180.389 shares outstanding at a net asset value of $7.46 per share. From April 2, 1990 through April 27, 1990, each securityholder redeemed his shares upon notice by applicant that it intended to go out of business. Applicant distributed a total of $523,809 to such securityholders. Payments were based on net asset value on the date of redemption. Prime Financial Partners L.P. (the "Parent"), parent of Prime Financial Planning Services, Inc., applicant's investment adviser (the "Adviser"), was the last shareholder to be redeemed. Parent's redemption proceeds were net of 100% of the unamortized organization costs of $44,400.[1]

3. Liquidation expenses of approximately $20,000 for transfer agency, accounting, custody, and tax reporting fees were borne by Parent.

4. Applicant has no securityholders, assets, debts, or other liabilities. Applicant is not a party to any litigation or administrative proceeding. Applicant is not engaged and does not propose to engage in any business activity other than those necessary for the winding up of its affairs.

5. On December 28, 1990, the directors of applicant authorized the dissolution of applicant. On August 20, 1991, applicant filed a Articles of Dissolution of the Corporation with the Arizona Corporation Commission.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92-14562 Filed 6-19-92; 8:45 am]

BILLING CODE 8010-01-M

[1] On March 23, 1992, the SEC instituted administrative proceedings pursuant to sections 9(b) and (f) of the Act and 203(f) and 203(k) of the Investment Advisers Act of 1940 (the "Advisers Act") against Thomas G. Cummings ("Cummings"). Cummings was chairman of the board and president of applicant, and, prior to the cessation of operations of the Adviser and applicant, was president and a director of both Adviser and Prime Financial Securities, Inc., applicant's distributor. The SEC accepted an offer of settlement by Cummings whereby Cummings was censured and ordered to permanently cease and desist from violating certain sections of the Act and the Advisers Act and undertook to return $50,000, plus prejudgment interest thereon, to the shareholders of applicant (except Parent and P.F. Syndications, Inc., which are affiliated persons of applicant, and, therefore, will not receive any portion of the $50,000). Subsequently, applicant filed a Form N-8F to deregister as an investment company. In the Matter of Thomas G. Cummings, Investment Company Act Release No. 18624 (Mar. 23, 1992) (order).

[Release No. 35-25556]

Filings Under the Public Utility Holding Company Act of 1935 ("Act")

June 12, 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 July 6, 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.

Entergy Corp., et al. (70-7851)

Entergy Corporation ("Entergy"), 225 Baronne Street, New Orleans, Louisiana, 70112, a registered holding company, and its wholly-owned subsidiary company, Electec, Inc. ("Electec"), 639 Loyola Avenue, New Orleans, Louisiana, 70113, have filed a post-effective amendment to their application-declaration under sections 6(a), 7, 9(a), and 10 of the Act.

By order dated July 25, 1991, (HCAR No. 25353) ("July Order"), Entergy and Electec were authorized to engage in certain transactions regarding First Pacific Networks, Inc. ("FPN"), a non-affiliated corporation, in the development of a Customer-Controlled Load Management/Automated Feedback System ("CCLM/AFS"), which is expected to provide several utility applications for a communications system that FPN has patented. The Commission authorized, among other things, for Electec to: (1) Issue and sell to Entergy, through December 31, 1994, up to 17,500 shares of Electec common stock, no par value, in one or more series, for up to $17.5 million; and (2) acquire (a) up to 6.5 million newly issued shares of common stock, $.001 par value ("FPN Common"), through December 31, 1991, for $3.5 million; (b) additional shares of FPN Common, through December 31, 1994, in order to maintain an ownership interest in FPN of at least 9.95% but less than 10%, subject to a reservation of jurisdiction; (c) a license from FPN for the exclusive, except for FPN, right to market and sub-lease certain utility applications for the CCLM/AFS for up to $8.5 million; (d) a security interest in certain FPN assets; and (e) an option to acquire FPN's 12% subordinated secured notes if FPN is in default of its obligations thereunder.

Electec recently was advised of the issuance and sale, by FPN, of 14,940,000 new shares of preferred stock for $14.94 million. FPN also intends to issue and sell in an initial underwritten public offering, at an estimated price of $9 to $11 per share, up to 5 million shares of common stock (plus up to 750,000 additional shares issuable upon the exercise of options to be granted to the underwriters) to raise up to approximately $63 million. To establish the appropriate price per share of the public offering, FPN intends to effect a 1-6.1 reverse stock split of its presently outstanding common stock.

Upon the closing of the public offering, the 6,143,000 shares of FPN common stock acquired by Electec under the July Order automatically will be converted to 1,007,116 shares of common stock (under the same 1–6.1 ratio). In addition, the aforementioned preferred stock will automatically be converted into FPN common stock (one share of common per 6.1 shares of preferred).

In connection with the public offering, Electec now proposes to acquire, through December 31, 1992, up to 9.95% of the 5 million shares (up to 497,500 shares) at the initial public offering price. In connection with the conversion of the preferred stock, Electec proposes to acquire, through December 31, 1992, up to 9.95% of new shares of common stock (up to 270,620 shares) at $6.10 per share. The primary stated basis for these transactions is to maintain for Electec an approximately 9.95% interest in FPN.

Electec also proposes to acquire, through December 31, 1994, up to 19,672 additional shares of FPN common stock from its representative on the FPN Board of Directors, who, from July 1991 through March 1992, received several options to purchase up to 19,672 shares of common stock (after the 1–6.1 reverse stock split) at $3.48 per share. Electec will acquire the additional shares from its representative at the exercise price of the options. In order to finance these transactions, Electec, through 1994, proposes to issue, and Entergy proposes to acquire, up to 9,000 shares (no par value) of Electec common stock at $1,000 per share—for a total purchase price of up to $9 million. Electec proposes to amend its charter, which now authorizes the issuance of only 25,000 shares of common stock, to authorize the issuance of 100,000 shares.

Entergy Corp. (70–8005)

Entergy Corporation ("Entergy"), 225 Barone Street, New Orleans, Louisiana 70112, a registered holding company, and Electec, Inc. ("Electec"), One Poydras Plaza, 639 Loyola Avenue, New Orleans, Louisiana 70113, its wholly-owned nonutility subsidiary, have filed an application-declaration under sections 6(a), 7, 9(a) and 10 of the Act and Rule 43 thereunder.

Entergy proposes to acquire, and Electec proposes to issue and sell, through December 31, 1992, 1,500 shares of Electec's common stock at $1,000 per share for an aggregate cash consideration of $1.5 million. The proceeds from the sale will be used by Electec to meet its ongoing operations for the remainder of 1992, including overhead, costs associated with the review of business and investment opportunities, expenses for marketing of Entergy system ("System") capabilities and expertise and reimbursement to certain System companies for services rendered to Electec in connection with its business activities, as previously authorized by the Commission. (See HCAR Nos. 23200 (January 13, 1984), 23569 (January 15, 1985), and 25353 (July 25, 1991).)

For the Commission, by the Division of Investment Management, pursuant to delegated authority

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92–14550 Filed 6–19–92; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 35–25554; International Series Release No. 398]

Filings Under the Public Utility Holding Company Act of 1935 ("Act")

June 12, 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 July 1, 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 delcaration(s), as filed or as amended, may be granted and/or permitted to become effective.

PSI Resources, Inc. (70–7964)

PSI Resources, Inc. ("PSI"), an Indiana public-utility holding company exempt from registration under section 3(a)(1) of the Act pursuant to rule 2, and PSI Energy, Inc. ("PSI Energy"), its wholly owned public-utility subsidiary company, both of 1000 East Main Street, Plainfield, Indiana 46168 ("Applicants"), have filed an application in connection with the proposed acquisition of an interest in a newly-formed Argentine electric public-utility company ("Target"). Applicants request an unqualified order of exemption pursuant to section 3(b) of the Act for PSI Energy Argentina, Inc. ("Energy Argentina"), a newly-formed, wholly owned Indiana subsidiary of PSI Energy, Investor Co., a to-be-formed partially owned subsidiary of Energy Argentina, and Target. Alternatively, Applicants request an order of the Commission under sections 9(a)(2) and 10, approving the proposed acquisition of an interest in Target, and granting exemptions under section 3(a)(5) from all provisions of the Act except section 9(a)(2) to Energy Argentina and Investor Co.

PSI Energy generates, transmits and sells electric power in Indiana. PSI Energy and reported operating revenues of approximately $1.1198 billion and $1.1223 billion, respectively, in 1991.

PSI intends to participate in an international consortium ("Consortium") that will bid to acquire 51% of the voting securities of either of two newly-formed Argentine electric-utility companies, Edenor, S.A. and Edesur, S.A. ("Targets"), that own and operate transmission and distribution systems in the City of Buenos Aires and the surrounding area.[1] The Argentine government currently owns 100% of each Target and has called for public tenders to sell a majority (51%) of the shares to private owners. It is contemplated that up to 39% of the remaining shares will be sold by the Argentine government to Argentine investors through a public offering on the Argentine stock exchange, and 10% will be held by Target employees.

If the bid made by the Consortium is successful, the members of the Consortium intend to form Investor Co. to acquire the 51% ownership interest in Target. Energy Argentina will hold from 4.99 to 10% of Investor Co. and will have the right to elect one of its twelve directors.[2] In addition, Energy Argentina will operate Target.

Although the actual amount of PSI's investment will not be determined until a formal bid is made, the application

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[1] Participants in the public tender process are permitted to bid on both Targets, but may acquire the voting securities of only one Target.

[2] The application states that Entergy Corporation, a registered public-utility holding company, has the option to acquire up to 10% of Investors Co.

states that PSI will not invest more than approximately $20 million. PSI intends to fund its portion of the Target acquisition through the issuance of long-term debt. PSI represents that: (1) No funds will be provided by PSI Energy; (2) neither PSI nor PSI Energy will assume any of Target's liabilities; and (3) only a small number of employees will be involved in providing services to Target and none of PSI's or PSI Energy's senior management will be assigned on a full-time or long-term basis to such tasks. To the extent that employees of PSI Energy provide any services in connection with the Argentine operations, PSI Energy will charge for such services based upon accounting procedures already in place and subject to review by the Indiana Utility Regulatory Commission ("IURC").

As a result of the acquisition of Target, Investor Co., Energy Argentina, PSI Energy, and PSI will each be a "holding company" within the meaning of section 2(a)(7) with respect to Target, and Target will be a direct or indirect "subsidiary company" of each within the meaning of section 2(a)(8). Energy Argentina will also be an "electric utility company" within the meaning of section 2(a)(3) because it will operate Target.

Applicants request orders of exemption under section 3(b) for Target, Investor Co. and Energy Argentina. The application states that none of Target, Investor Co. or Energy Argentina will derive a material part of its income, directly or indirectly, from sources within the United States, and will not operate, or have any subsidiary company that operates, as a public-utility company in the United States. The application also states that, if unqualified exemptions are granted, Investor Co., Energy Argentina and PSI Energy will rely upon rule 10(a)(1) to provide an exemption insofar as each is a holding company; and Energy Argentina, PSI Energy and PSI will rely on rule 11(b)(1) to provide an exemption from the approval requirements of sections 9(a)(2) and 10 to which they would otherwise be subject.

If unqualified orders of exemption are not granted, Applicants request authorization under sections 9(a)(2) and 10 to organize and acquire Energy Argentina; to participate in the organization and acquisition of up to a 10% interest in Investor Co. through Energy Argentina; and to acquire up to a 5.1% interest in Target through Investor Co. Applicants also request orders under section 3(a)(5) exempting Energy Argentina and Investor Co. from all provisions of the Act, except section 9(a)(2).

The Applicants estimate, based on a 5.1% interest in Target's revenues for 1990, that PSI's pro forma share of such revenues would be approximately $30.6 million (or less than 3% of PSI's consolidated revenues in 1991). PSI anticipates that Energy Argentina will receive less than $1 million per year for its services as operator of Target, which amount will not significantly change the above calculation. PSI states that it will continue to qualify as an exempt holding company under section 3(a)(1) after the acquisition.

While the current structure of the proposed transaction calls for the involvement of four levels of holding companies (PSI, PSI Energy, Energy Argentina and Investor Co.), Applicants expect that, upon completion of regulatory and judicial proceedings related to the formation of PSI, only three holding companies will remain in the PSI chain of ownership. Applicants have informed the IURC of the proposed transactions and have provided a letter from the IURC stating that the proposed activities do not require its prior approval.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92-14548 Filed 6-19-92; 8:45 am]

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[Rel. No. IC-18770; 812-7843]

Shearson Lehman Appreciation Fund Inc., et al.; Application

June 11, 1992.

AGENCY: Securities and Exchange Commission (the "SEC" or "Commission").

ACTION: Notice of Application for Exemption under the Investment Company Act of 1940 (the "Act").

APPLICANTS: Shearson Lehman Appreciation Fund Inc., SLH Fundamental Value Fund Inc., Shearson Lehman Aggressive Growth Fund Inc., Shearson Lehman Brothers Small Capitalization Fund, Shearson Lehman Brothers Telecommunications Trust (Telecommunications Growth Fund), Shearson Lehman Brothers Global Opportunities Fund, SLH Precious Metals and Minerals Fund Inc., SLH High Yield Fund Inc., Shearson Lehman Managed Governments Inc., SLH Managed Municipals Fund Inc., Shearson Lehman Brothers Short-Term World Income Fund, Shearson Lehman Brothers 1990s Fund, The Advisors Fund L.P., SLH Municipals Series Fund Inc., SLH California Municipals Fund Inc., Shearson Lehman Brothers Massachusetts Municipals Fund, SLH New Jersey Municipals Fund Inc. and SLH New York Municipals Fund Inc. (collectively referred to as the "Front-End Load Funds"); Shearson Lehman Brothers Worldwide Prime Assets Fund ("Worldwide Prime Assets Fund") and Shearson Lehman Brothers Income Trust ("Income Trust") (the Front-End Load Funds, Worldwide Prime Assets Fund and Income Trust are collectively referred to as the "Funds"); SLH Investment Portfolios Inc., Shearson Lehman Brothers Income Portfolios and Shearson Lehman Brothers Equity Portfolios (collectively referred to as the "Portfolios"); Shearson Lehman Brothers Inc. ("Shearson Lehman Brothers"), Shearson Lehman Investment Strategy Advisors Inc., Shearson Lehman Global Asset Management Limited, PanAgora Asset Management Limited, The Boston Company Advisors, Inc. and Salomon Brothers Asset Management Inc. (each, an "Advisor" and collectively, the "Advisors").

RELEVANT ACT SECTIONS: Conditional order requested under section 6(c) for an exemption from sections 2(a)(32), 2(a)(35), 18(f), 18(g), 18(i), 22(c), and 22(d) of the Act and rule 22c-1 thereunder.

SUMMARY OF APPLICATION: Applicants seek a conditional order under section 6(c) that would permit the Funds and Portfolios (a) to issue three classes of shares representing interests in the same portfolio of securities, and (b) to assess a contingent deferred sales load ("CDSL") on certain redemptions of shares of one of the classes, and to waive the CDSL in certain cases.

FILING DATE: The application was filed on December 27, 1991, and amendments thereto were filed on April 15, 1992, May 19, 1992, and June 9, 1992. By supplemental letter dated June 10, 1992, counsel, on behalf of applicants, agreed to file a further amendment during the notice period to make certain technical changes. This notice reflects the changes to be made to the application by such further amendment.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the Commission orders a hearing. Any interested person may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on July 6, 1992, and should be accompanied by proof of service on applicants in the form of an affidavit or, for lawyers, a

certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, NW., Washington, DC 20549; Applicants, Two World Trade Center, New York, New York 10048.

FOR FURTHER INFORMATION CONTACT: John V. O'Hanlon, Staff Attorney, at (202) 272-3922, or Elizabeth G. Osterman, Branch Chief, at (202) 272-3016 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee from the SEC's Public Reference Branch.

Applicants' Representations

1. The Funds and Portfolios are open-end management investment companies registered under the Act. Several of the Funds and Portfolios consist of multiple investment portfolios or series, each of which has separate investment objectives and policies and segregated assets. Each Fund and Portfolio has entered into or will enter into an investment advisory agreement with an Advisor pursuant to which the Advisor, subject to the general supervision of the Board of Directors or Board of Trustees or individual general partners of the Fund or Portfolio (the "Governing Board"), provides investment advisory and management services. Each Fund and Portfolio has entered into or will enter into a distribution agreement with Shearson Lehman Brothers pursuant to which Shearson Lehman Brothers acts as principal underwriter for the Fund or Portfolio. The term "Distributor" refers to Shearson Lehman Brothers in its role as distributor of a Fund or Portfolio. The Boston Company Advisors, Inc. (the "Administrator") serves either as sub-investment advisor and administrator or as administrator to each of the Funds and Portfolios.

2. The Funds and the Portfolios currently have different distribution structures. Shares of the Portfolios are offered to investors subject to a CDSL and to fees under a distribution plan adopted pursuant to rule 12b-1 under the Act ("rule 12b-1"). Shares of the Front-End Load Funds are offered to investors at their respective net asset values plus a front-end sales load. Further, shares of certain of the Front-End Load Funds are offered to investors with a front-end sales load and subject to a rule 12b-1 fee that is lower than that applicable to the Portfolios. Shares of certain of the Funds are offered pursuant to other sales load and distribution fee structures.

3. Applicants seek an exemptive order that would permit the Funds and Portfolios to offer three classes of shares representing interests in the same portfolio of securities and to assess a CDSL on certain redemptions of shares of one of the classes.[1]

A. The Variable Pricing System

1. Applicants propose to establish the Variable Pricing System for different classes of shares within the same Fund or Portfolio. Under the Variable Pricing System, each of the Front-End Load Funds and Portfolios will offer investors the option of purchasing shares with either a front-end sales load together with a rule 12b-1 plan providing for a service fee ("Class A shares" or the "Front-End Load Option"), or subject to a CDSL and a rule 12b-1 plan providing for a service fee and distribution fee ("Class B shares" or the "Deferred Option"). In addition, certain Funds and Portfolios will offer a third class of shares ("Class C shares") for purchase exclusively by (a) Tax-exempt employee benefit and retirement plans of Shearson Lehman Brothers and its affiliates, (b) certain unit investment trusts sponsored by Shearson Lehman Brothers and its affiliates (the "UITs"), and (c) although not currently authorized by the Governing Boards of the Funds and Portfolios, when and if authorized, (i) employees of Shearson Lehman Brothers and its affiliates, (ii) directors, general partners, or trustees of any investment company for which Shearson Lehman Brothers serves as distributor and, in each of (i) and (ii), their spouses and minor children (collectively, the "Class C Investors"). The Class C shares will be offered without imposition of a sales charge or a distribution or service fee.

2. As to the first category of Class C Investors, although other similar plans may be included in the future, it is currently contemplated that this category will include two plans, the Shearson Lehman Brothers Holdings Tax Deferred Savings Plan (the "Shearson TDSP") and the E.F. Hutton & Co. Inc. Universal Savings Account Plan. The second category of offerees is restricted to UITs that could be created only upon receipt of a second order of exemption pursuant to section 6(c) of the Act. The UITs would invest their assets in fixed pools of securities, which would include both Class C shares of a Fund or Portfolio and other securities such as zero-coupon government securities. The third category is limited to investors affiliated with Shearson Lehman Brothers who are currently eligible to receive discounts from loads normally charged. Investors eligible to purchase Class C shares will, once a Fund or Portfolio begins to offer Class C shares, be directed to purchase Class C shares and will not be permitted to purchase Class A or Class B shares of that Fund or Portfolio.

3. Each class of shares of a Fund or Portfolio will represent interests in the same portfolio of investments of the Fund or Portfolio, and will differ only in the following respects: (a) The fees charged to the Class A and Class B shares under each class's rule 12b-1 plan only will be applied against the respective class; (b) Class B will be subject to a CDSL and pay both a distribution fee and a service fee; Class A will be subject to a front-end sales load and pay a service fee; and Class C will not be subject to a sales load or any distribution or service fee; (c) a higher transfer agency fee may be imposed on Class B shares than on either Class A or Class C shares; (d) a higher transfer agency fee may be imposed on Class A shares than on Class C shares; (e) shareholders of each of the Class A and Class B shares will have exclusive voting rights with respect to the rule 12b-1 plan applicable to their respective class; (f) only the Class B shares will have a conversion feature providing for automatic conversion to Class A shares after a certain period of time; and (g) each class will have different exchange privileges.

4. Under the Front-End Load Option, an investor will purchase Class A shares at net asset value plus a front-end sales load. In addition, Class A shareholders will be assessed an ongoing service fee under a rule 12b-1 plan of up to .25% of average daily net assets. Proceeds from the sales load and service fee will be used by the Distributor primarily to pay commissions to the financial consultant responsible for the sale of the Class A shares and to defray its expenses with respect to providing services to investors choosing the Front-End Load Option.

5. Investors choosing the Deferred Option will purchase Class B shares at

[1] Applicants request that any relief also apply to other existing open-end management investment companies in the same "group of investment companies," as defined in rule 11a-3, with the Funds and Portfolios that may implement the Variable Pricing System in the future, any additional series of shares offered in the future by any of the Funds and Portfolios, and any open-end management investment company that in the future is in the same "group of investment companies" with the Funds and Portfolios.

net asset value per share without the imposition of a sales load at the time of purchase. Each Fund or Portfolio will pay a service fee of up to .25%, and a distribution fee at an expected annual rate of up to .75%, of average daily net assets pursuant to a rule 12b–1 plan. In addition, an investor's proceeds from a redemption of Class B shares made within a specified period (expected to be five years) of his or her purchase may be subject to a CDSL that will be paid to the Distributor. The Distributor will use the rule 12b–1 fee and CDSL proceeds primarily to offset its prior commission payments to its financial consultants and will retain the remainder to offset its expenses in selling Fund or Portfolio shares and servicing shareholder accounts.

6. Class C shares will not be subject to any sales load or rule 12b–1 plan fee.

7. Class B shares automatically will convert to Class A shares after a certain holding period of, in most cases, approximately eight years. In some cases, however, the holding period will be shorter. For purposes of calculating the holding period required for conversion, newly created Class B shares issued after the date of implementation of the Variable Pricing System shall be deemed to have been issued on (a) The date on which the issuance of the Class B shares occurred, or (b) for Class B shares obtained through an exchange, or a series of exchanges, the date on which the issuance of the original Class B shares occurred. In the case of Portfolio shares purchased prior to the implementation of the Variable Pricing System that were subject to a CDSC that are renamed as Class B shares, or, in the case of a Portfolio that is merged into a Fund with the shareholders of the extinguished Portfolio receiving Class B shares of the surviving Fund in exchange for their extinguished Portfolio shares, for purposes of calculating the holding period required for conversion, these Class B shares will become eligible for conversion approximately eight years after the date of their purchase but in no event will conversion occur before September 30, 1994.[2]

8. Shares purchased through the reinvestment of dividends and other distributions paid in respect of Class B shares also will be Class B shares. However, for purposes of conversion to Class A, all these Class B shares will be considered to be held in a separate sub-account. Each time any Class B shares in the shareholder's Fund account (other than those in the sub-account) convert to Class A, a pro-rata portion of the Class B shares then in the sub-account will also convert to Class A. The portion will be determined by the ratio that the shareholder's Class B shares converting to Class A bears to the shareholder's total Class B shares not acquired through dividends and distributions.

9. Class A shares of a Fund or Portfolio will be exchangeable, subject to an appropriate "sales charge differential," if applicable, only for Class A shares of the other Funds and Portfolios and shares of money market funds sponsored by the Distributor that do not have a sales load. Class B shares of a Fund or Portfolio will be exchangeable only for Class B shares of the other Funds and Portfolios and shares of the Money Market Portfolio of Shearson Lehman Brothers Income Portfolios. Similarly, Class C shares of a Fund and Portfolio will be exchangeable only for Class C shares of the other Funds and Portfolios and shares of money market funds sponsored by the Distributor that do not have a sales load. The exchange privileges applicable to the Class A, Class B and Class C shares will comply with rule 11a–3 under the Act.

10. Under the Variable Pricing System, income will be allocated to each class of shares based on the relative net asset value of each class. Expenses will be allocated to each class based on the relative net asset value of each class, except to the extent that each class's net asset value and expenses will reflect the expenses of the Class A and Class B rule 12b–1 plans, the transfer agency fees of each class, and any incremental expenses properly attributable to one class which the Commission shall approve by an amended order. Because of the ongoing distribution fee and potentially higher transfer agency fee paid by the holders of Class B shares, the net income attributable to and the dividends payable on Class B shares will be lower than the net income attributable to and the dividends payable on Class A shares. In addition, because the Class C shares will not bear any rule 12b–1 fee and because it is anticipated that the transfer agency fees may be lower than those attributed to Class A and Class B shares, the net income attributable to and the dividends payable on Class C shares will be higher than the net income attributable to and the dividends payable on either Class A or Class B shares.

B. The CDSL

1. The CDSL will be imposed by each Fund and Portfolio on a redemption of Class B shares of the Fund or Portfolio that causes the current value of the Class B shares of the Fund or Portfolio held by a shareholder to fall below the total dollar amount of payments for the purchase of Class B shares of the Fund or Portfolio made by the shareholder during a specified period, up to five years (the "CDSL Period"). No CDSL will be imposed to the extent that the net asset value of the Class B shares redeemed by a shareholder does not exceed (a) The current net asset value of Class B shares of the Fund or Portfolio purchased prior to the CDSL Period ("Old Shares Value"), plus (b) the current net asset value of Class B shares of the Fund or Portfolio purchased through reinvestment of dividends or capital gains distributions ("Reinvestment Shares Value"), plus (c) increases in the net asset value of the Class B shares of the Fund or Portfolio above purchase payments made during the CDSL period ("Appreciation Value"). In effecting a particular redemption request of Class B shares of a Fund or Portfolio made by a shareholder, each Fund or Portfolio will first redeem an amount that represents Appreciation Value. If the amount of the requested redemption exceeds Appreciation Value, each Fund or Portfolio will next redeem an amount that represents Reinvestment Shares Value. If the amount of the redemption exceeds Appreciation Value and Reinvestment Shares Value, each Fund or Portfolio will then redeem an amount that represents Old Shares Value. The amount by which a redemption exceeds the total of Appreciation Value, Reinvestment Shares Value, and Old Shares Value will be subject to the CDSL.

2. The amount of the CDSL charged to a shareholder of a Fund or Portfolio will depend on the number of years that have elapsed since the shareholder made the payment on the shares being redeemed. The CDSL applicable to investors participating in the Shearson 410(K) Solution Program, however, will

[2] Applicants state that the delay in the implementation of the conversion feature until September 30, 1994 is necessary because the Portfolios' transfer agent does not currently maintain computerized records indicating beyond a five-year period the specific length of time that existing shareholders have held shares. The transfer agent maintains records for a full five-year period to coincide with the period during which a CDSC may be assessed upon redemption of shares. In order to develop records beyond this five-year period, the transfer agent's personnel will seek to review the Portfolios' records and the records pertaining to each shareholder's account and to transfer this information into a form appropriate for implementing the conversion feature on an automated basis. Applicants have been informed that this process will require significant personnel time and new systems development and is expected to take up to two years.

depend on the number of years that have elapsed since the 401(K) plan first became a purchaser of Fund or Portfolio Class B shares. Any changes in CDSL amounts, rates of reduction, or the CDSL Period will be reflected in the prospectus of the affected Fund or Portfolio, and the change will not adversely affect shares that were issued prior to the date of the change. The CDSL schedule will comply, to the extent applicable, with the requirements of section 26(d) of the Rules of Fair Practice of the NASD.

3. Applicants proposed to waive the CDSL on (a) Redemptions of Class B shares following the death or disability of a shareholder, so long as the redemption is requested within one year of death or initial determination of disability; (b) any partial or complete redemption in connection with certain post-retirement distributions from Individual Retirement Accounts ("IRAs") or other qualified retirement plans; (c) redemptions effected pursuant to a Fund's or Portfolio's automatic cash withdrawal plan of amounts up to 2% per month of the value of a shareholder's Class B shares in a Fund or Portfolio at the time the withdrawal plan commences; (d) redemptions effected pursuant to a Fund's or Portfolio's right to liquidate a shareholder's account if the aggregate net asset value of the Class B shares held in the account is less than $500; (e) redemptions effected by (x) employees of American Express or its subsidiaries, including Shearson Lehman Brothers, (y) IRAs, Keogh plans and employee benefit plans for those employees, and (z) under certain circumstances, spouses and minor children of those employees; (f) redemptions effected by accounts managed by investment advisory subsidiaries of American Express registered under the Investment Advisers Act of 1940; (g) redemptions effected by directors, general partners or trustees of any investment company for which Shearson Lehman Brothers serves as a distributor; and (h) redemptions effected by an investment company registered under the Act in connection with the combination of the investment company with a Fund or Portfolio by merger, acquisition of assets, or by any other transaction.

4. The CDSL imposed on redemptions of Fund or Portfolio Class B shares will be waived on certain redemptions of Class B shares effected by investors through a 401(k) Plan participating in the Shearson 401(k) Solution Program. These redemptions include (a) Redemptions of Class B shares of a Fund or Portfolio in connection with lump-sum or other distributions made by a 401(k) Plan as a result of (i) the retirement of an employee participating in the 401(k) Plan, (ii) the termination of employment of an employee participant of the 401(k) Plan, (iii) the death or disability of an employee participant of the 401(k) Plan, (iv) the attainment of age 59½ by an employee participant of the 401(k) Plan and (v) hardship of an employee participant of the 401(k) Plan to the extent permitted under section 401(k) of the Code, and (b) redemptions of Fund or Portfolio Class B shares in connection with a loan made by a 401(k) Plan to a participant of the 401(k) Plan. Any other redemption of Fund or Portfolio Class B shares effected by a shareholder through a 401(k) Plan during a period of six years from the date of the 401(k) Plan's first purchase of shares of a Fund or Portfolio will be subject to a CDSL at the rate of 3%, regardless of the number of years that have elapsed since the 401(k) Plan made the purchase payment from which an amount is being redeemed. All redemptions of Fund or Portfolio Class B shares made by investors through a 401(k) Plan after the end of this six-year period will not be subject to a CDSL.

5. If the Funds or Portfolios waive or reduce the CDSC, the waiver or reduction will be uniformly applied to all offerees in the class specified. In waiving or reducing a CDSC, the Funds and Portfolios will comply with the requirements of rule 22d–1 as if the CDSL were a sales load. If the members of the Governing Board of a Fund or Portfolio waiving or reducing its CDSL determine not to waive or reduce the CDSL any longer, the disclosure in the prospectus of that Fund or Portfolio will be appropriately revised. Also, any Class B shares purchased prior to the termination of the waiver or reduction will be able to have the CDSL waived or reduced as provided in the prospectus of the Fund or Portfolio at the time of the purchase of the shares.

Applicants' Legal Analysis

A. The Variable Pricing System

1. Applicants seek an exemption from sections 18(g), 18(f)(1), and 18(i) to the extent the Variable Pricing System may result in a senior security, as defined by section 18(g), the issuance and sale of which would be prohibited by section 18(f)(1), and to the extent the allocation of voting rights under the Variable Pricing System may violate the provisions of 18(i). Applicants believe that the Variable Pricing System does not raise any of the legislative concerns that section 18 of the Act was designed to ameliorate. The proposal does not involve borrowings and does not affect the Funds' or Portfolios' existing assets or reserves. In addition, the proposed arrangement will not increase the speculative character of the shares of the Funds or Portfolios since all such shares will participate *pro rata* in all of a Fund's or Portfolio's income and expenses with the exception of the differing rule 12b–1 fees and transfer agency costs.

2. Applicants believe that the Variable Pricing System will both facilitate the distribution of shares by a Fund or Portfolio and provide investors with a broader choice as to the method of purchasing shares. In addition, applicants believe owners of each class of shares may be relieved of a portion of the fixed costs normally associated with investing in mutual funds since such costs would, potentially, be spread over a greater number of shares than they would be otherwise. The establishment of the Class C shares would permit the Funds and Portfolios to offer their shares to the Class C Investors under arrangements that would reflect the *de minimus* costs of distribution for that class. Class C then may attract assets to the Funds or Portfolios to benefit holders of all classes. Finally, the conversion feature will benefit long-term Class B shareholders by relieving them from most of the burden of distribution expenses.

3. Applicants believe that the proposed allocation of expenses and voting rights relating to the rule 12b–1 plans in the manner described above is equitable and would not discriminate against any group of shareholders. In addition, such arrangements should not give rise to any conflict of interest because the rights and privileges of each class of shares are substantially identical.

4. Since each class of shares will be redeemable at all times (subject to the same limitations set forth in each Fund's or Portfolio's prospectus and statement of additional information), since no class of shares will have any preference or priority over any other class in the Fund or Portfolio in the usual sense (this is, no class will have any distribution or liquidation preference with respect to particular assets and no class will be protected by any reserve or other account), and since the similarities and dissimilarities of the classes of shares will be disclosed, investors will not be given any misleading impressions as to the safety or risk of any classes of shares.

B. The CDSL

1. Section 2(a)(32) of the Act defines redeemable security to be a security that, upon presentation to the issuer or to a person designated by the issuer, entitles the shareholder to receive approximately his proportionate share of the issuer's current net assets. Applicants assert that the imposition of the CDSL will not restrict a shareholder from receiving a proportionate share of the current net assets, but merely will defer the deduction of a sales charge and make it contingent upon an event that may never occur. However, to avoid uncertainty in this regard, applicants request an exemption from the operation of section 2(a)(32) of the Act to the extent necessary to permit the imposition of the proposed CDSL.

2. Section 2(a)(35) of the Act defines sales load to be the amount properly chargeable to sales or promotional expenses that are paid at the time the securities are purchased. Applicants will pay the CDSL to the Distributor to reimburse it for expenses related to the sale of shares; therefore, applicants submit that this arrangement is within the section 2(a)(35) definition of sales load, but for timing of the imposition of the charge. Applicants contend that the deferral of the sales charge, and its contingency upon the occurrence of an event that may not occur, does not change the basic nature of this charge, that is in every other respect a sales charge.

3. Section 22(c) of the Act and rule 22c–1 thereunder require that the price of a redeemable security issued by an open-end management company for purposes of sale, redemption and repurchase be based on the company's current net asset value. Applicants contend that the redemption price of their shares is based on current net asset value. The CDSL is then deducted from this redemption price. However, to avoid any question as to the potential applicability of section 22(c) and rule 22c–1, applicants request an exemption from rule 22c–1 to the extent necessary to permit applicants to impose the proposed CDSL.

4. Applicants request an exemption from the provisions of section 22(d) of the Act to permit the waiver of the CDSL as described in this notice. Section 22(d) requires a registered investment company, principal underwriter or dealer in redeemable securities to sell those securities only at a current public offering price described in the company's prospectus. Subject to certain conditions, rule 22d–1 provides an exemption from section 22(d) allowing investment companies to charge different sales loads to different classes of investors. The CDSL and the waivers therefrom will be applied as described in the Fund's and Portfolio's registration statements. However, to preclude any assertion that rule 22d–1 is inapplicable to the CDSL, applicants request an exemption from section 22(d) to the extent necessary or appropriate to implement the CDSL and waivers therefrom as described above.

Applicants' Conditions

Applicants agree that any order granting the requested relief shall be subject to the following conditions:

A. Conditions Relating to the Variable Pricing System

1. Each class of shares will represent interests in the same portfolio of investments of a Fund or Portfolio, and be identical in all respects, except as set forth below. The only differences among the various classes of shares of the same Fund or Portfolio will relate solely to: (a) The impact of the respective sales charges and rule 12b–1 plan payments made by each of the Class A shares and Class B shares of a Fund or Portfolio, or, in the case of the Class C shares, the absence of any sales charge or distribution or service fees, any higher incremental transfer agency costs attributable solely to the Class B or Class A shares of a Fund or Portfolio, and any other incremental expenses subsequently identified that should be properly allocated to one class which shall be approved by the Commission pursuant to an amended order, (b) voting rights on mattes which pertain to rule 12b–1 plans, (c) the different exchange privileges of the various classes of shares as described in the prospectuses (and as more fully described in the statements of additional information) of the Funds and Portfolios, (d) the conversion feature applicable to Class B shares and (e) the designation of each class of shares of a Fund or Portfolio.

2. The members of the Governing Boards of each of the Funds and Portfolios, including a majority of the members who are not "interested persons" of the Fund or Portfolio, as that term is defined in section 2(a)(19) of the Act ("Independent Board Members"), shall have approved the Variable Pricing System prior to the implementation of the Variable Pricing System by a particular Fund or Portfolio. The minutes of the meetings of the members of the Governing Boards of each of the Funds and Portfolios regarding the deliberations of their members with respect to the approvals necessary to implement the Variable Pricing System will reflect in detail the reasons for determining that the proposed Variable Pricing System is in the best interests of both the Funds and the Portfolios and their respective shareholders and such minutes will be available for inspection by the Commission staff.

3. On an ongoing basis, the members of the Governing Boards of the Funds and Portfolios, pursuant to their fiduciary responsibilities under the Act and otherwise, will monitor each Fund and Portfolio for the existence of any material conflicts among the interests of the various classes of shares. The members of the Governing Boards of each Fund and Portfolio, including a majority of the Independent Board Members, shall take such action as is reasonably necessary to eliminate any such conflicts that may develop. The Advisors and Distributor, acting through the Administrator, will be responsible for reporting any potential or existing conflicts to the members of the Governing Boards. If a conflict arises, the Advisors and the Distributor at their own costs will remedy such conflict up to and including establishing a new registered management investment company.

4. Any rule 12b–1 plan adopted or amended to permit the assessment of a rule 12b–1 fee on any class of shares that has not had its rule 12b–1 plan approved by the public shareholders of that class will be submitted to the public shareholders of that class for approval at the next meeting of shareholders after the initial issuance of the class of shares. The meeting is to be held within 16 months of the date that the registration statement relating to the class first becomes effective or, if applicable, the date that the amendment to the registration statement necessary to offer the class of shares first becomes effective.

5. The members of the Governing Boards of the Funds and Portfolios will receive quarterly statements of distribution revenues and expenditures for each class of shares (the "Statements") complying with paragraph (b)(3)(ii) of rule 12b–1, as it may be amended from time to time. In the Statements, only distribution expenditures properly attributable to the sale of either the Class A or Class B shares will be used to support the rule 12b–1 fee charged to shareholders of such class of shares. Expenditures not related to the sale of a specific class of shares will not be presented to the members of the Governing Boards to support rule 12b–1 fees charged to shareholders of such class of shares. The Statements, including the

allocations upon which they are based, will be subject to the review and approval of the Independent Board Members in the exercise of their fiduciary duties under rule 12b–1.

6. Dividends paid by a Fund or Portfolio with respect to each class of shares, to the extent any dividends are paid, will be calculated in the same manner, at the same time, on the same day and will be in the same amount, except that fee payments made under the rule 12b–1 plans relating to the Class A and Class B shares, respectively, will be borne exclusively by each respective class and except that any higher incremental transfer agency costs attributable solely to Class B or Class A share will be borne exclusively by that class.

7. The methodology and procedures for calculating the net asset value and dividends/distributions of the three classes and the proper allocation of income and expenses among the various classes will be reviewed by an expert (the "Independent Examiner"). The Independent Examiner has rendered a report to applicants, filed as an exhibit to the application, stating that the methodology and procedures are adequate to ensure that the calculations and allocations will be made in an appropriate manner, subject to the conditions and limitations in that report. On an ongoing basis, the Independent Examiner, or an appropriate substitute Independent Examiner, 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 Funds and Portfolios that the calcualtions and allocations are being made properly. The reports of the Independent Examiner shall be filed as part of the periodic reports filed with the Commission pursuant to sections 30(a) and 30(b)(1) of the Act. The work papers of the Independent Examiner with respect to such reports, following a request by the Funds and Portfolios that the Funds and Portfolios agree to make, will be available for inspection by the Commission's staff upon the written request for such work papers by a senior member of the Division of Investment Management or of a Regional Office of the Commission, 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 Independent Examiner is a "Special Purpose" report on the "Design of a System," and the ongoing reports will be "Special Purpose" reports on the "Design of a System and Certain Compliance Tests" as defined and described in SAS No. 44 of the AICPA, as it may be amended from time to time, or in similar auditing standards as may be adopted by the AICPA from time to time.

8. Applicants have adequate facilities in place to ensure implementation of the methodology and procedures for calculating the net asset value and dividends/distributions among the several classes of shares and the proper allocation of income and expenses among such classes of shares and this representation will be concurred with by the Independent Examiner in the initial report referred to in condition (7) above and will be concurred with by the Independent Examiner, or an appropriate substitute Independent Examiner, on an ongoing basis at least annually in the ongoing reports referred to in condition (7) above. Applicants agree to take immediate corrective action if the Independent Examiner, or appropriate substitute Independent Examiner, does not so concur in the ongoing reports.

9. The prospectuses of the Funds and Portfolios will include a statement to the effect that a financial consultant and any other person entitled to receive compensation for selling shares of the Funds and Portfolios may receive different levels of compensation with respect to one particular class of shares over another in a Fund or Portfolio.

10. The Distributor will adopt compliance standards as to when Class A, Class B, and Class C shares may appropriately be sold to particular investors. Applicants will require all persons selling shares of the Funds and Portfolios to agree to conform to these standards.

11. The conditions pursuant to which the exemptive order is granted and the duties and responsibilities of the members of the Governing Boards of the Funds and Portfolios with respect to the Variable Pricing System will be set forth in guidelines that will be furnished to the members of the Governing Boards as part of the materials setting forth the duties and responsibilities of the members of the Governing Boards.

12. Each Fund and Portfolio will disclose in its prospectus the respective expenses, performance data, distribution arrangements, services, fees, sales loads, deferred sales loads, and exchange privileges applicable to each class of shares offered through the prospectus. Class A and Class B shares will be offered and sold through a single prospectus. If Class C shares of a Fund or Portfolio are offered solely through a separate prospectus, the prospectus for the Class A and Class B shares of that Fund or Portfolio will identify the existence of the Class C shares of the Funds and Portfolios and will identify the entities eligible to purchase such shares, and the Class C prospectus will identify the existence of the Fund's or Portfolio's Class A and Class B shares. The shareholder reports of each Fund or Portfolio will disclose the respective expenses and performance data applicable to each class of shares. The shareholder reports will contain, in the statement of assets and liabilities and sttement of operations, information related to the Fund or Portfolio as a whole generally and not on a per class basis. Each Fund's or Portfolio's per share data, however, will be prepared on a per class basis with respect to all classes of shares of such Fund or Portfolio. To the extent any advertisement or sales literature describes the expenses or performance data applicable to Class A or B shares, it will disclose the expenses and/or performance data applicable to both classes. Advertising materials reflecting the expenses or performance data for Class C shares will be available only to Class C eligible investors. The information provided by applicants for publication in any newspaper or similar listing of the Funds' and Portfolios' net asset values and public offering prices will separately present Class A and Class B shares.

13. The Applicants acknowledge that the grant of the exemptive order requested by the application will not imply Commission approval, authorization or acquiescence in any particular level of payments that the Funds or Portfolios may make pursuant to rule 12b–1 plans in reliance on the exemptive order.

14. Class B shares will convert to Class A shares on the basis of the relative net asset values of the two classes without the imposition of any sales load, fee or other charge.

B. Condition Relating to the CDSL

1. Applicants will comply with the provisions of proposed rule 6c–10 under the Act (*see* Investment Company Release No. 16619 (Nov. 2 1988)), as such rule is currently proposed and as it may be reproposed, adopted or amended.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92–14563 Filed 6–19–92; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. C-18784; 812-7934

T. Rowe Price New Income Fund, Inc., et al.; Application

June 15, 1992.

AGENCY: Securities and Exchange Commission, ("SEC").

ACTION: Notice of Application for Exemption under the Investment Company Act of 1940 ("Act")

APPLICANTS: T. Rowe Price New Income Fund, Inc. ("New Income"), T. Rowe Price Reserve Fund, Inc. ("Prime Reserve"), T. Rowe Price International Funds, Inc. ("International"), T. Rowe Price Associates, Inc. ("Price Associates"), Rowe Price-Fleming International, Inc. ("Price-Fleming") (collectively, the "Price Applicants"). Axe Houghton Funds, Inc., USF&G Money Market Funds, Inc., The Over-The-Counter Securities Group, Inc., USF&G Corporation, USF&G Investment Management Group, Inc. ("USF&G Management"), and USF&G Review Management Corp. ("Review," and together with USF&G Corporation and USF&G Management, "USF&G") (collectively, the "USF&G Applicants").

RELEVANT ACT SECTIONS: Order requested pursuant to section 6(c) of the Act granting an exemption from section 15(f)(1)(A).

SUMMARY OF APPLICATION: Applicants seek relief from section 15(f)(1)(A) to permit USF&G to receive consideration in connection with its sale of three USF&G funds, notwithstanding the fact that the three acquiring T. Rowe Price funds will have boards with fewer than 75% disinterested directors after the acquisition.

FILING DATE: The application was filed on June 3, 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 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 July 10, 1992, and should be accompanied by proof of service on the applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, NW., Washington, DC 20549; Price Applicants, 100 East Pratt Street, Baltimore, MD 21202; USF&G Applicants, 100 Light Street, Baltimore, MD 21202.

FOR FURTHER INFORMATION CONTACT: Barry A. Mendelson, Staff Attorney, at (202) 504-2284, or C. David Messman, Branch Chief, at (202) 272-3018 (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. New Income, Prime Reserve, and International (the "Applicant Price Funds") are open-end investment companies registered under the Act. New Income and Prime Reserve are single series funds. International consists of seven series, including the European Stock Fund ("European Stock"). Price Associates is the investment manager of New Income and Prime Reserve. Price-Fleming is the investment manager of European Stock.

2. Axe-Houghton Funds, Inc. is a registered, open-end investment company consisting of four series, including Axe-Houghton Income Fund ("Income"). USF&G Money Market Funds, Inc. is a registered, open-end investment company whose only series is USF&G Cash Reserve Fund ("Cash Reserve"). The Over-the-Counter Securities Group, Inc. is a registered, open-end investment company consisting of three series, including European Emerging Companies Fund ("EEC"). Income, Cash Reserve, and EEC are hereinafter known as the "Applicant USF&G Funds." Review is the investment manager of each of the Applicant USF&G Funds.[1] Review is a wholly-owned subsidiary of USF&G Management, which is an indirect, wholly-owned subsidiary of USF&G Corporation.

3. USF&G Corporation and USF&G Management entered into a Purchase Agreement with Price Associates, dated as of May 19, 1992, pursuant to which the T. Rowe Price family of funds will acquire six portfolios currently managed by USF&G. New Income will acquire Income, Prime Reserve will acquire Cash Reserve, and International will acquire EEC.[2] The proposed acquisitions are subject to certain conditions, including approvals by the boards of directors of the investment companies involved in the reorganization and by the shareholders of the portfolios affected thereby. Price Associates will pay USF&G (or its designees) an aggregate of $11,060,000, subject to adjustment under certain circumstances. The expenses of the transactions will be borne as follows: (i) Each fund managed by Price Associates or Price-Fleming that participates in the reorganization (a "Participating Price Fund") will bear up to $5,000 of the expenses incurred by it; (ii) Price Associates will bear its own expenses and the expenses of each Participating Price Fund in excess of $5,000; and (iii) USF&G will bear its own expenses and the expenses of each fund managed by USF&G that participates in the reorganization.

4. Section 15(f) permits an investment adviser to receive "any amount or benefit" in connection with the assignment of its investment advisory contract with a registered investment company if the requirements of that section are satisfied. Section 15(f)(1)(A) requires that, for three years after the transaction, at least 75% of the directors of the investment company (or its successor, if the assignment results from the sale of the company's assets to another investment company) are not interested persons of the investment advisers of such company, or of the predecessor investment adviser.

5. The boards of directors of the Applicant Price Funds currently are composed as follows ("Interested Directors" are directors who are "interested persons," within the meaning of section 2(a)(19) of the Act, of Price Associates or Price-Fleming):

Fund	Number of interested directors	Number of disinterested directors	Total number of directors
New Income	5	7	12
Prime Reserve	3	7	10
International	3	4	7

In order to comply with section 15(f)(1)(A) following consummation of the transactions, (a) New Income would have to add eight Disinterested Directors or reduce the number of Interested Directors from five to two; (b) Prime Reserve would have to add two Disinterested Directors or reduce the

[1] Pursuant to agreements with Review, Axe-Houghton Management, Inc. ("A-H Management") serves as investment adviser to Income, and Chancellor Capital Management, Inc. ("Chancellor") serves as investment adviser to Cash Reserve. A-H Management is a wholly-owned subsidiary of USF&G Management. Chancellor also is affiliated with USF&G.

[2] No exemptive relief is being sought in connection with T. Rowe Price's acquisition of the three other USF&G portfolios, because such acquisitions will comply with all provisions of section 15(f).

number of Interested Directors from three to two; and (c) International would have to add five Disinterested Directors or reduce the number of Interested Directors from three to one. If New Income and International were to add eight and five Disinterested Directors, respectively, a vote of shareholders would be required pursuant to section 16(a) of the Act, which requires at least two-thirds of a fund's directors to have been elected by shareholders. Neither New Income nor International would otherwise be required to hold a shareholders meeting under Maryland law.

6. Applicants contend that reconstituting the boards of the three Applicant Price Funds would be contrary to the interests of shareholders. Shrinking the boards by removing previously elected Interested Directors would cause the funds to lose the valued services and insights that these insiders bring to the board. Adding significant numbers of Disinterested Directors could make the boards unduly large and unwieldy and make decisional and operational matters cumbersome. In addition, it would add to the cost of the reorganization by necessitating shareholder meetings, and add ongoing costs in the form of increased directors' fees and potentially increased insurance and fidelity bond premiums. Accordingly, applicants seek an exemption that would permit the Applicant Price Funds to acquire the Applicant USF&G Funds without reconstituting their boards to comply with the 75% Disinterested Director requirement of section 15(f)(1)(A).

7. Section 15(f)(3)(B) provides that if (as here) the assignment of an investment advisory contract results from the merger of, or sale of substantially all the assets by, a registered investment company with or to another registered investment company with assets substantially greater in amount, such discrepancy in size shall be considered by the SEC in determining whether, or to what extent, to grant relief from section 15(f)(1)(A).

8. Each of the three Applicant Price Funds has substantially greater assets than the Applicant USF&G Fund it will acquire. At April 15, 1992, New Income had assets of $1.322 billion, or approximately 23 times Income's assets of $57.8 million. At April 15, 1992, Prime Reserve had assets of $4.045 billion, or approximately 125 times Cash Reserve's assets of $32.4 million. At April 15, 1992, International's seven series, including European Stock, had aggregate assets of $2.591 billion, or approximately 107 times EEC's assets of $24.1 million.

9. In connection with the acquisition of EEC by the European Stock Series of International, applicants assert that it is appropriate for the assets of International, as opposed to European Stock, to be taken into account when considering the "substantially greater" test set forth in section 15(f)(3)(B) of the Act (see paragraph 7 above).[3] Applicants contend that any other conclusion would be inconsistent with the literal language of section 15(f)(3)(B), which refers to the sale of assets of one investment company to another "*investment company* with assets substantially greater in amount" (emphasis added). International is the investment company involved in the transaction and, in fact, the board of directors of International must authorize the transaction on behalf of the European Stock series. Furthermore, the shareholders of all series of International vote together as a single class in the election of directors. Applicants assert that shareholders of International's six series other than European Stock, representing over 95% of International's assets, should not be forced to reconstitute the company's board of directors to effectuate European Stock's acquisition of EEC's assets.

10. For the reasons stated in the application and summarized herein, applicants assert that the granting of an order exempting the Applicant Price Funds from the provisions of section 15(f)(1)(A) of the Act in connection with the proposed acquisitions is necessary and appropriate in the public interest and consistent with the protection of investors and the purposes intended by the policy and provisions of the Act.

For the SEC, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92-14547 Filed 6-19-92; 8:45 am]

BILLING CODE 8010-01-M

[3] Whereas the assets of International are approximately 107 times greater than EEC's assets, the assets of European Stock ($113.6 million at April 15, 1992) are only approximately 4.7 times greater.

DEPARTMENT OF STATE

[Public Notice 1637]

United States Organization for the International Telegraph and Telephone Consultative Committee (CCITT) Study Group A; Meeting

The Department of State announces that the U.S. Organization for the International Telegraph and Telephone Consultative Committee (CCITT) Study Group A will meet on July 8, 1992 at 9:30 in room 1205 at the Department of State, 2201 C Street, NW., Washington, DC 20520.

The agenda for the meeting will include a debrief of the Study Group III and Study Group II meetings held in June 1992, and preparatory activities for the upcoming interim CCITT meetings in the fall.

In addition, Study Group A will consider approving the U.S. response to the CCITT questionnaire on UPT numbering prefixes (circular letter No. 142).

Members of the general public may attend the meeting and join in the discussion, subject to the instructions of the Chair. Admittance of public members will be limited to the seating available. In that regard, entrance to the Department of State building is controlled and entry will be facilitated if arrangements are made in advance of the meeting. Persons who plan to attend should advise the Office of Earl Barbely, Department of State, (202) 647-0201, FAX (202) 647-7407. The above includes government and non-government attendees. Public visitors will be asked to provide their date of birth and Social Security number at the time they register their intention to attend and must carry a valid photo ID with them to the meeting in order to be admitted. 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: June 11, 1992.

Earl Barbely,

Director Telecommunications and Information Standards, Chairman U.S. CCITT National Committee.

[FR Doc. 92-14546 Filed 6-19-92; 8:45 am]

BILLING CODE 4710-07-M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Fitness Determination of Rader Aviation, Inc. d/b/a Greenbrier Airlines

AGENCY: Department of Transportation.

ACTION: Notice of Commuter Air Carrier Fitness Determination—Order 92-6-26, Order to Show Cause.

SUMMARY: The Department of Transportation is proposing to find Rader Aviation, Inc. d/b/a Greenbrier Airlines fit, willing, and able to provide

commuter air service under section 419(e) of the Federal Aviation Act.

RESPONSES: All interested persons wishing to respond to the Department of Transportation's tentative fitness determination should file their responses with the Air Carrier Fitness Division, P-56, Department of Transportation, 400 Seventh Street, SW., room 6401, Washington, DC 20590, and serve them on all persons listed in Attachment A to the order. Responses shall be filed no later than June 30, 1992.

FOR FURTHER INFORMATION CONTACT: Carol Woods, Air Carrier Fitness Division (P-56, room 6401), U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590, (202) 366-2340.

Dated: June 15, 1992.

Patrick V. Murphy, Jr.,

Deputy Assistant Secretary for Policy and International Affairs.

[FR Doc. 92-14564 Filed 6-19-92; 8:45 am]

BILLING CODE 4910-62-M

Minority Business Resource Center Advisory Committee; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. app. 1), notice is hereby given of a meeting of the Minority Business Resource Center Advisory Committee to be held Wednesday, July 15, 1992, from 2-4 p.m. at the Department of Transportation, 400 7th Street, SW., Conference Room 3200-3204, Washington, DC 20590. The agenda for the meeting is as follows:

— Short-Term Loan Program (New Banks)
— Bonding Assistance Program
— Certification
— Procurement Opportunities

Attendance is open to the interested public but limited to the space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to attend and persons wishing to present oral statements should notify the Office of Small and Disadvantaged Business Utilization, Minority Business Resource Center not later than the day before the meeting. Information pertaining to the meeting may be obtained from Mrs. Marie A. Hendricks, Office of Small and Disadvantaged Business Utilization, 400 7th Street, SW., Washington, DC 20590, telephone (202) 366-1930. Any member of the public may present a written statement to the Committee at any time.

Issued in Washington, DC on June 15, 1992.

Alicia L. Casanova,

Director, Office of Small and Disadvantaged Business Utilization.

[FR Doc. 92-14565 Filed 6-19-92; 8:45 am]

BILLING CODE 4910-62-M

Coast Guard

[CGD 92-032]

South Florida Oil Spill Research Center

AGENCY: Coast Guard, DOT.

ACTION: Notice of intent; request for letters of interest; second of three required notices.

SUMMARY: The Coast Guard intends to establish a Federally Funded Research and Development Center to address prevention, tracking and cleanup of oil discharges in the unique tropical and subtropical environment around South Florida. The Coast Guard is seeking letters of interest with capabilities statements from interested parties. This is the second of three required notices.

DATES: Letters of interest with capabilities statements must be received not later than July 28, 1992.

ADDRESSES: Letters of interest with capabilities statements may be mailed to Superintendent, U.S. Coast Guard Academy, 15 Mohegan Avenue, New London, CT 06320-4195, Attention: Ms. B. Burke, Procurement Office (Code FP), or may be delivered at the above address between 8 a.m. and 3 p.m., Monday through Friday, except Federal Holidays.

FOR FURTHER INFORMATION CONTACT: Ms. B. Burke, Procurement Office, U.S. Coast Guard Academy, (203) 444-8242.

SUPPLEMENTARY INFORMATION: Congress has directed that the Coast Guard establish a research center to address prevention, tracking, and cleanup of oil discharges in the unique tropical and subtropical environment around South Florida. Research at the proposed Tropical/Subtropical Oil Spill Research Center will focus on improving the ability of the Federal government to monitor oil discharges around South Florida and other tropical and subtropical environments; predict and track their flow; predict oil spill behavior in warm waters; and make informed decisions concerning treatment and cleanup. Specific research areas may include, but not be limited to, satellite and airborne oil spill remote sensing; predicting and tracking their movement with trajectory models; predicting the physical properties and behavior of oil in warm waters; decision support systems for making informed decisions concerning treatment and cleanup; studying the impacts of oil discharges on public health, the socio-economic environment, and the natural environment; and developing advanced technologies for cleaning up or mitigating the impact of oil spills on shorelines and open water including mechanical recovery, dispersants, bioremediation, and insitu burning. The Coast Guard is seeking capability statements from universities, colleges, and other research and education institutions. The universities, colleges, or institutions should be able to demonstrate strong capabilities in remote sensing from satellites and other modalities, and strengths in research, education, and training in geophysics, oceanography, marine biology, chemistry, ocean engineering, and computer science. The Coast Guard intends to establish the Center as a Federally Funded Research and Development Center (FFRDC) in accordance with Federal Acquisition Regulation 35.017, 48 CFR 35.017. The institution will be required to provide no less than 20 percent of the annual total cost of the Center from institutional, private sector, and philanthropic sources. The expectation is that the research center will be located at an existing marine sciences institution in the appropriate tropical/subtropical environment and in close proximity to the Gulf Stream and to other unique tropical flora and fauna, but may draw upon faculty, facilities, and other resources from other institutions to build a comprehensive capability to conduct research in the prevention, tracking and cleanup of oil discharges.

Interested parties should send letters of interest with a capabilities statement. Capabilities statements should include institution research interests, a description of past and present research related to oil spill prevention, tracking, and cleanup, description of educational programs and courses related to marine pollution control, resumes of research faculty, list of facilities (vessels, laboratories, test tanks, etc.) that will be available for oil spill related research, and cooperative agreements with other private and government research institutions which augment the institution's on-site capabilities. Letters of interest with capabilities statement are limited to a total of 20 typewritten pages and are required not later than July 28, 1992.

Dated: June 15, 1992.

P.A. Bunh,

Chief, Office of Engineering, Logistics and Development.

[FR Doc. 92-14609 Filed 6-19-92; 8:45 am]

BILLING CODE 4910-14-M

Federal Transit Administration

FTA Sections 3 and 9 Grant Obligations

AGENCY: Federal Transit Administration (FTA), DOT.

ACTION: Notice.

SUMMARY: The Department of Transportation and Related Agencies Appropriations Act, 1992, Public Law 102-143, signed into law by President George Bush on October 28, 1991, contained a provision requiring the Federal Transit Administration to publish an announcement in the Federal Register every 30 days of grants obligated pursuant to sections 3 and 9 of the Federal Transit Act, as amended. The statute requires that the announcement include the grant number, the grant amount, and the transit property receiving each grant. This notice provides the information as required by statute.

FOR FURTHER INFORMATION CONTACT: Janet Lynn Sahaj, Chief, Resource Management and State Programs Division, Office of Capital and Formula Assistance, Department of Transportation, Federal Transit Administration, Office of Grants Management., 400 Seventh Street, SW., room 9301, Washington, DC 20590, (202) 366-2053.

SUPPLEMENTARY INFORMATION: The Section 3 program provides capital assistance to eligible recipients in three categories: Fixed guideway modernization, construction of new fixed guideway systems and extensions, and bus purchases and construction of bus related facilities. The section 9 program apportions funds on a formula basis to provide capital and operating assistance in urbanized areas. Pursuant to the statute FTA reports the following grant information:

SECTION 3 GRANTS

Transit property	Grant number	Grant amount	Obligation date
San Francisco Bay Area Rapid Transit District, San Francisco-Oakland, CA	CA-03-0385-00	$70,012,250	05/21/92
Transit Authority of Northern Kentucky, Cincinnati, OH-KY	KY-03-0023-00	3,800,000	05/18/92
Marble Valley Regional Transit District, Rutland, VT	VT-03-0016-00	200,000	05/19/92

SECTION 9 GRANTS

Transit Property	Grant number	Grant amount	Obligation date
San Mateo County Transit District, San Francisco-Oakland, CA	CA-90-X475-00	$14,991,540	05/11/92
Long Beach Public Transportation Company, Los Angeles, CA	CA-90-X491-00	4,844,000	05/11/92
Orange County Transit District, Los Angeles, CA	CA-90-X500-00	17,158,387	05/21/92
Boise, City of—Boise Urban Stages, Boise City, ID	ID-90-X022-00	806,185	05/06/92
Bloomington-Normal Public Transit System, Bloomington-Normal, IL	IL-90-X148-02	27,515	05/19/92
Massachusetts Bay Transportation Authority, Boston, MA	MA-90-X127-01	35,055,036	05/04/92
City of Beloit, Beloit, WI-IL	WI-90-X152-00	216,983	05/15/92

Issued on: June 16, 1992.

Brian W. Clymer,

Administrator.

[FR Doc. 92-14568 Filed 6-19-92; 8:45 am]

BILLING CODE 4910-57-M

Transit Technology Program: Advisory Committee Meeting

AGENCY: Federal Transit Administration, DOT.

ACTION: Notice of meeting.

SUMMARY: This notice announces the third Federal Transit Administration (FTA) Transit Industry Technology Development Advisory Committee meeting to be held on July 17, 1992. The Advisory Committee was established to assist the FTA in developing guidelines for implementing a transit technology program. The July meeting is intended to discuss the status of the FTA Technology program, and review the FTA Office of Technical Assistance and Safety's proposed six-year Technology Program Plan.

MEETING DATE: The meeting will take place July 17, 1992, 9 a.m. to 4:30 p.m.

ADDRESSES: The Advisory Committee meeting will be held in rooms 8236-8240 at the Department of Transportation, 400 Seventh Street, SW, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Jeffrey G. Mora, Federal Transit Administration, Office of Technical Assistance and Safety, (202) 366-0215.

SUPPLEMENTARY INFORMATION:

Background

The Federal Transit Administration (FTA) has held two previous meetings of the Transit Industry Technology Development Federal Advisory Committee. The first meeting provided some guidance to the Committee membership about their responsibilities, and what the FTA expects of the Committee. This meeting also established the objectives of the Committee, as well as key technology areas that the transit industry would be addressing. The second meeting included a lengthy discussion of FTA procurement practices and a review of the FTA Fiscal Year 1992 Technology Program Plan.

The third meeting, a follow-up to the March 3, 1992 meeting, is intended to serve as a forum to seek the views of the Committee members about the FTA Office of Technical Assistance and Safety's proposed six-year Technology Program Plan. The Plan was developed from a variety of sources, including Planning and Research Priorities Conferences held in 1990 and 1991, and previous Technology Advisory Committee meetings. The FTA is seeking comment on the general program direction, emphasis areas, and transit industry needs.

Procedures

The FTA will provide interpreters for persons with hearing disabilities, if requested by July 14, 1992. All meetings

of the Transit Industry Technology Development Advisory Committee will be open to the public.

Issued on: June 16, 1992.

Brian W. Clymer,

Administrator.

[FR Doc. 92-14567 Filed 6-19-92; 8:45 am]

BILLING CODE 4910-57-M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirement Submitted to OMB for Review

Date: June 17, 1992.

The Department of the 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.

Departmental Offices

OMB Number: 1505-0063.

Form Number: IRS Forms 4789 & 8362; Customs Form 4790; Treasury Form 90-22.1.

Type of Review: Reinstatement.

Title: Financial Recordkeeping and Reporting of Currency and Foreign Transactions.

Description: The Bank Secrecy Act, PL No. 90-508 (codified at 12 U.S.C. 18296, 12 U.S.C. 1951 et *seq* and 31 U.S.C. 5311-5326) authorizes the Secretary of the Treasury to require financial institutions and individuals to keep records and file reports that the Secretary determines have a high degree of usefulness in criminal, tax or regulatory matters.

Respondents: Individuals or households, Businesses or other for-profit.

Estimated Number of Respondents: 338,857.

Estimated Burden Hours Per Response: 33 hours, 51 minutes.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 11,468,071 hours.

Clearance Officer: Louis A. Holland, (202) 622-1563, Departmental Offices, room 3171, Treasury Annex, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

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. 92-145866 Filed 6-19-92; 8:45 am]

BILLING CODE 4810-25-M

Fiscal Service

[Dept. Circ. 570, 1991 Rev., Supp. No. 25]

Surety Companies Acceptable on Federal Bonds Colonial Surety Co.

A Certificate of Authority as an acceptable surety on Federal Bonds is hereby issued to the following company under Sections 9304 to 9308, Title 31, of the United States Code. Federal bond-approving officers should annotate their reference copies of the Treasury Circular 570, 1991 Revision, on page 30137 to reflect this addition:

Company Name: Colonial Surety Company.

Business Address: 50 Chestnut Ridge Road, Montvale, New Jersey, 07645.

Underwriting Limitation b/: $175,000.

Surety Licenses c/: DE, DC, MD, NJ and PA.

Incorporated In: Pennsylvania.

Certificates of Authority expire on June 30 each year, unless revoked prior to that date. The Certificates are subject to subsequent annual renewal as long as the companies remain qualified (31 CFR, part 223). A list of qualified companies is published annually as of July 1 in Treasury Department Circular 570, with details as to underwriting limitations, areas in which licensed to transact surety business and other information.

Copies of the Circular may be obtained from the Surety Bond Branch, Funds Management Division, Financial Management Service, Department of the Treasury, Washington, DC 20227, telephone (202) 874-6850.

Dated: June 5, 1992.

Charles F. Schwan, III,

Director, Funds Management Division, Financial Management Service.

[FR Doc. 92-14580 Filed 6-19-92; 8:45 am]

BILLING CODE 4810-35-M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Russian Federation; Effective Date of Agreement on Trade Relations

AGENCY: Office of the United States Trade Representative.

ACTION: Notice of the effective date, with respect to the Russian Federation, of the agreement on trade relations between the United States of America and the Union of Soviet Socialist Republics.

SUMMARY: In Proclamation 6352 of October 9, 1991 (56 FR 51317), the President proclaimed that the "Agreement on Trade Relations Between the United States of America and the Union of Soviet Socialist Republics" enters into force and nondiscriminatory treatment would be extended to products of the U.S.S.R. in accordance with the terms of the Agreement on the date of exchange of written notices of acceptance in accordance with Article XVII of the Agreement. Subsequently, the U.S.S.R. was succeeded by twelve independent states, including the Russian Federation. An exchange of diplomatic notes with the Russian Federation in accordance with Article XVII of the Agreement took place in Washington, DC on June 17, 1992. Accordingly, the Agreement became effective on June 17, 1992, with respect to the Russian Federation and nondiscriminatory treatment is extended to products of the Russian Federation as of June 17, 1992 in accordance with the Agreement and as provided for in Proclamation 6352 of October 9, 1991.

Frederick L. Montgomery,

Chairman, Trade Policy Staff Committee.

[FR Doc. 92-14701 Filed 6-18-92; 11:56 am]

BILLING CODE 3190-01-M

Sunshine Act Meetings

Federal Register
Vol. 57, No. 120
Monday, June 22, 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).

DEPARTMENT OF ENERGY

FEDERAL ENERGY REGULATORY COMMISSION

Notice

The following notice of meeting is published pursuant to Section 3(a) of the Government in the Sunshine Act (Pub. L. No. 94-409), 5 U.S.C. 552b:

DATE AND TIME: June 24, 1992, 10:00 a.m.

PLACE: 825 North Capitol Street, N.E., Room 9306, Washington, D.C. 20426.

STATUS: Open.

MATTERS TO BE CONSIDERED: Agenda.

Note—Items listed on the agenda may be deleted without further notice.

CONTACT PERSON FOR MORE INFORMATION: Lois D. Cashell, Secretary, Telephone (202) 208-0400. For a recording listing items stricken from or added to the meeting, call (202) 208-1627.

This is a list of matters to be considered by the Commission. It does not include a listing of all papers relevant to the items on the agenda; however, all public documents may be examined in the Reference and Information Center.

Consent Agenda—Hydro, 961st Meeting—June 24, 1992, Regular Meeting (10:00 a.m.)

CAH-1.
Project No. 2721-005, Bangor Hydro-Electric Company
CAH-2.
Project No. 1473-006, Granite County, Montana
CAH-3.
Project No. 9086-022, Northwest Power Company, Inc.
CAH-4.
Docket Nos. EL84-20-007 and 008, Commonwealth Power Company
CAH-5.
Project No. 2984-017, S.D. Warren Company
CAH-6.
Project No. 6901-015, City of New Martinsville, West Virginia
CAH-7.
Project No. 7270-008, Northern Wasco County People's Utility District
CAH-8.
Project No. 1957-004, Wisconsin Public Service Corporation
CAH-9.
Project No. 6641-022, City of Marion, Kentucky and Smithland Hydroelectric Partners
CAH-10.
Project No. 7802-005, Natural Energy Resources Company
CAH-11.
Project No. 2801-016, Joseph A. Guerrieri
CAH-12.
Project No. 2205-011, Central Vermont Public Service Corporation
CAH-13.
Project No. 6433-003, Warren B. Nelson
Project No. 6434-006, Thomas A. Nelson
Project No. 6435-001, Joseph B. Nelson

Consent Electric Agenda

CAE-1.
Docket No. ER92-509-000, Fale-Safe, Inc.
Docket No. ER92-115-001, Portland General Electric Company
CAE-2.
Docket No. ER92-222-001, Arkansas Power and Light Company
CAE-3.
Docket No. ER92-343-001, Northern States Power Company (Minnesota) and Northern States Power Company (Wisconsin)
CAE-4.
Docket Nos. ER92-331-002 and ER92-332-002, Consumers Power Company
CAE-5.
Docket No. QF91-154-001, Cogentrix of Mayaguez, Inc.
CAE-6.
Omitted
CAE-7.
Docket No. RM92-6-001, Deletion of Certain Outdated or Nonessential Regulations Pertaining to the Commission's Jurisdiction under Parts II and III of the Federal Power Act, the Public Utility Regulatory Policies Act of 1978, the Pacific Northwest Electric Power Planning and Conservation Act and Delegations from the Secretary of Energy
CAE-8.
Omitted
CAE-9.
Docket No. ER92-183-001, Florida Power Corporation
CAE-10.
Docket No. EC92-007-001, Indiana-Kentucky Electric Corporation
CAE-11.
Docket No. EF92-5171-001, United States Department of Energy—Western Area Power Administration (Salt Lake City Area Integrated Projects)
CAE-12.
Docket No. ER90-395-002, Northeast Utilities Service Company
CAE-13.
Docket No. ER92-330-000, Green Mountain Power Corporation
CAE-14.
Docket Nos. ER92-122-000 and ER92-218-000, Mississippi Power Company
CAE-15.
Docket No. EL92-15-000, Florida Power & Light Company
CAE-16.
Docket No. ER92-517-000, Southern Companies
CAE-17.
Docket No. ER92-481-000, Public Service Company of New Hampshire
Docket No. ER92-446-000, Kansas Gas & Electric Company
Docket No. ER92-539-000, Pacific Gas & Electric Company
Docket No. ER92-430-000, Potomac Electric Power Company
Docket No. ER92-548-000, Southern California Edison Company
Docket Nos. ER92-382-000, and ER92-550-000, New England Power Company
Docket No. ER92-551-000, Northern States Power Company
Docket No. ER92-410-000, Pacific Gas & Electric Company
Docket No. ER92-486-000, UtiliCorp United, Inc.
Docket No. ER92-544-000, Montaup Electric Company
Docket No. ER92-538-000, Kansas Gas & Electric Company
Docket No. ER92-535-000, UNITIL Power Corporation
Docket No. ER92-534-000, St. Joseph Light & Power Company
Docket No. ER92-547-000, PacifiCorp
Docket Nos. ER92-346-000, and ER92-347-000, Central Hudson Gas & Electric Company
Docket No. ER92-379-000, Kansas Power & Light Company
Docket No. ER92-525-000, Florida Power & Light Company
Docket Nos. ER92-540-000, ER92-541-000 and ER92-542-000, Duke Power Company
Docket Nos. ER92-495-000, ER92-496-000, ER92-497-000, ER92-498-000, ER92-499-000, ER92-500-000, ER92-501-000, ER92-502-000, ER92-503-000 and ER92-504-000, Tucson Electric Power Company

Consent Oil and Gas Agenda

CAG-1.
Docket No. RP92-182-000, Tennessee Gas Pipeline Company
CAG-2.
Docket Nos. TM92-7-22-000, TM92-5-22-001 and 002, CNG Transmission Corporation
CAG-3.
Docket Nos. TA92-1-17-005 and RP92-171-000, Texas Eastern Transmission Corporation
CAG-4.
Docket No. TM92-5-49-000, Williston Basin Interstate Pipeline Company
CAG-5.
Docket No. TQ92-3-2-000, East Tennessee Natural Gas Company
CAG-6.

Docket No. TM92-3-2-000, East Tennessee Natural Gas Company
CAG-7.
Docket No. TQ92-5-23-000, Eastern Shore Natural Gas Company
CAG-8.
Docket No. TQ92-4-21-000, Columbia Gas Transmission Corporation
CAG-9.
Docket No. TQ92-5-18-000, Texas Gas Transmission Corporation
CAG-10.
Docket Nos. TQ92-6-63-000 and TM92-4-63-000, Carnegie Natural Gas Company
CAG-11.
Docket No. TQ92-11-25-000, Mississippi River Transmission Corporation
CAG-12.
Docket No. TQ92-4-34-000, Florida Gas Transmission Company
CAG-13.
Docket Nos. TA91-1-41-004, 005 and RP88-227-031, Paiute Pipeline Company
CAG-14.
Omitted
CAG-15.
Docket Nos. CP89-1525-003 and 004, Northwest Pipeline Corporation
CAG-16.
Docket No. TQ92-8-59-000, Northern Natural Gas Company
CAG-17.
Docket Nos. CP89-7-013, 018 and 019, Transcontinental Gas Pipe Line Corporation
CAG-18.
Docket Nos. TA92-2-82-000, 001, 003, 004, RP92-29-000 and TM92-2-82-000, Viking Gas Transmission Company
CAG-19.
Docket Nos. RP91-198-000 and RP85-209-033, *et al.*, United Gas Pipe Line Company
CAG-20.
Docket No. RP92-176-000, Colorado Interstate Gas Company
CAG-21.
Omitted
CAG-22.
Docket Nos. RP92-181-000, CP89-629-021 and CP90-639-012, Tennessee Gas Pipeline Company
CAG-23.
Docket No. RP92-172-000, Northern Border Pipeline Company
CAG-24.
Docket No. RP92-177-000, Northern Border Pipeline Company
CAG-25.
Docket Nos. RP92-1-005 and RP91-224-003, Northern Natural Gas Company, Division of Enron Corporation
CAG-26.
Docket No. RP92-178-000, Florida Gas Transmission Company
CAG-27.
Omitted
CAG-28.
Docket No. MT92-4-000, Gas Transport, Inc.
CAG-29.
Docket Nos. TA92-2-82-005 and TM92-2-82-002, Viking Gas Transmission Company
CAG-30.
Docket Nos. TA92-1-43-003, RP92-136-001 and TM92-6-43-001, Williams Natural Gas Company
CAG-31.
Docket No. RM92-4-001, Deletion of Certain Outdated or Nonessential Regulations Pertaining to the Commission's Jurisdiction Over Natural Gas
CAG-32.
Docket Nos. RP86-119-020, RP88-191-028, RP89-30-004, RP90-122-007, RP91-29-011, RP91-167-004, RP88-228-034, RP88-249-007, RP89-29-011, RP89-149-005, RP89-242-005, CP87-115-006, CP89-470-004, TA84-2-9-020, TA85-1-9-012, TA89-1-9-002, TA90-1-9-006, TA91-1-9-004, RP91-16-003, CP87-103-009, RP91-210-010 and CP91-3135-002, Tennessee Gas Pipeline Company
CAG-33.
Docket Nos. RP91-203-009 and 012, Tennessee Gas Pipeline Company
CAG-34.
Docket No. RP87-110-002, Northwest Pipeline Corporation
CAG-35.
Docket No. RP92-18-002, El Paso Natural Gas Company
CAG-36.
Docket No. IS92-10-001, Amerada Hess Pipeline Corporation
Docket No. IS92-11-001, ARCO Transportation Alaska, Inc.
Docket No. IS92-12-001, BP Pipelines (Alaska) Inc.
Docket No. IS92-13-001, Exxon Pipeline Company
Docket No. IS92-14-001, Mobil Alaska Pipeline Company
Docket No. IS92-15-001 Phillips Alaska Pipeline Company
Docket No. IS92-16-001, Unocal Pipeline Company
CAG-37.
Docket No. RM91-8-001, Qualifying Certain Tight Formation Gas for Tax Credit
CAG-38.
Omitted
CAG-39.
Docket No. RP92-145-000, Natural Gas Clearinghouse v. Panhandle Eastern Pipe Line Company
CAG-40.
Docket Nos. RP88-259-000, CP89-1227-000, RP89-136-000, CP90-124-000 and RP90-161-000, Northern Natural Gas Company
CAG-41.
Docket No. RP91-123-003, Canyon Creek Compression Company
CAG-42.
Docket Nos. RP91-164-003 and 004, Granite State Gas Transmission, Inc.
CAG-43.
Docket Nos. RP91-204-003, RP90-111-000, RP91-79-006, 001, TM91-4-2-000, 001, 002, TM92-2-2-000 and RP85-47-000, East Tennessee Natural Gas Company
CAG-44.
Docket Nos. RP91-78-000 and CP92-108-000, Midwestern Gas Transmission Company
CAG-45.
Docket No. RP92-3-000, Southeastern Natural Gas Company
CAG-46.
Docket Nos. RP92-162-000 and RS92-82-000, Superior Offshore Pipeline Company
CAG-47.
Docket No. RM91-11-000, In Re Pipeline Service Obligations and Revisions to Regulations Governing Self-Implementing Transportation Under Part 284 of the Commission's Regulations
CAG-48.
Docket No. RS92-61-000, Freeport Interstate Pipeline Company
CAG-49.
Docket Nos. RS92-24-000, RP88-115-000, RP90-104-000, RP90-192-000 and CP89-1119-000, Texas Gas Transmission Corporation
CAG-50.
Docket Nos. RS92-14-000 and RP90-143-000, CNG Transmission Corporation
CAG-51.
Docket Nos. RS92-8-000, RP92-1-000 and CP92-71-000, Northern Natural Gas Company
CAG-52.
Docket Nos. RS92-61-000 and RP91-212-000, Stingray Pipeline Company
CAG-53.
Docket Nos. RS92-23-000, RP91-203-000 and RP92-132-000, Tennessee Gas Pipeline Company
CAG-54.
Docket Nos. RS92-41-000 and RP91-189-000, Midwestern Gas Transmission Company
CAG-55.
Docket Nos. RS92-52-000 and RP92-48-000, Viking Gas Transmission Company
CAG-56.
Docket Nos. RS92-23-000, RP91-204-000 and RP90-111-000, East Tennessee Natural Gas Company
CAG-57.
Docket Nos. RP91-187-000, CP91-2448-000 and RS92-16-000, Florida Gas Transmission Company
CAG-58.
Docket Nos. RS92-22-000, RP91-229-000 and RP92-166-000, Panhandle Eastern Pipe Line Company
CAG-59.
Docket No. RS92-37-000, Green Canyon Pipe Line Company
CAG-60.
Docket Nos. RS92-39-000 and CP92-356-000, The Inland Gas Company, Inc.
CAG-61.
Ommitted
CAG-62.
Docket No. TC81-9-007, Texas Gas Transmission Corporation
CAG-63.
Docket No. CP89-2107-002, Arkla Energy Resources, Inc.
Docket No. CP90-2275-002, ANR Pipeline Company
Docket No. CP88-312-015, Natural Gas Pipeline Company of America
CAG-64.
Docket No. CP92-246-001, Peoples Natural Gas Company, Division of UtiliCorp United Inc. v. Williams Natural Gas Company and Vulcan Chemicals Division of Vulcan Materials Company
CAG-65.

Docket No. CP88-105-002, Yukon Pacific Company, L.P.
CAG-66.
Docket No. CP92-6-005, Southern Natural Gas Company and South Georgia Natural Gas Company
Docket No. CP92-311-002, Southern Natural Gas Company
CAG-67.
Docket Nos. CP89-634-020, RP92-25-004 and MT92-1-003, Iroquois Gas Transmission System, L.P.
CAG-68.
Docket No. CP92-79-001, Northwest Pipeline Corporation
CAG-69.
Docket No. CP91-2392-001, Northwest Pipeline Corporation
Docket No. CP91-2393-001, Williams Gas Processing Company
CAG-70.
Docket No. CP91-2704-001, Blue Lake Gas Storage Company
Docket No. CP91-2705-001, ANR Pipeline Company
Docket No. CP91-2730-001, ANR Storage Company
CAG-71.
Docket No. CP86-492-005, Moraine Pipeline Company
CAG-72.
Docket Nos. CP92-71-000 and CP86-435-005, Northern Natural Gas Company
Docket No. CP90-1031-001, Pacific Gas Transmission Company
Docket No. CP88-136-025, Texas Eastern Transmission Corporation
Docket No. CP88-686-002, Texas Gas Transmission Corporation
Docket Nos. CP88-328-005, CP89-1916-005 and CP92-378-000, Transcontinental Gas Pipe Line Corporation
Docket No. CP90-1777-000, TransColorado Gas Transmission Company
Docket Nos. CP88-133-004 and RS92-87-001, Transwestern Pipeline Company
Docket No. CP86-586-002, Trunkline Gas Company
CAG-73.
Docket No. CP87-115-002, Tennessee Gas Pipeline Company
CAG-74.
Docket No. CI63-195-003, Tenneco Oil Company, TOC-Rocky Mountains Inc. and Amoco Pipeline Company
CAG-75.
Docket No. CP91-2206-001, Tennessee Gas Pipeline Company
CAG-76.
Docket No. CP89-1684-004, Steuben Gas Storage Company
Docket No. CP92-288-000, CNG Transmission Corporation
CAG-77.
Docket No. CP92-196-000, Natural Gas Pipeline Company of America
CAG-78.
Docket No. CP91-2394-000, Questar Pipeline Company
CAG-79.
Docket No. CP92-202-000, Gas Company of New Mexico, a Division of Public Service Company of New Mexico, Northwest Pipeline Corporation and Transwestern Pipeline Company
CAG-80.
Docket No. CP92-154-000, Colorado Interstate Gas Company
CAG-81.
Docket No. CP92-457-000, Wisconsin Gas Company
CAG-82.
Docket No. CP92-153-000, Delmarva Power and Light Company
CAG-83.
Docket No. CP92-376-000, Mojave Pipeline Company
Docket No. CP92-198-001, Kern River Gas Transmission Company
CAG-84.
Docket No. CP92-216-000, Peoples Natural Gas Company, Division of UtiliCorp United Inc. v. Natural Gas Pipeline Company of America
CAG-85.
Docket Nos. RP92-120-001 and 002, Panhandle Eastern Pipe Line Company
CAG-86.
Docket No. RP92-179-000, Florida Gas Transmission Company

Hydro Agenda

H-1.
Reserved

Electric Agenda

E-1.
Docket Nos. ER92-365-000 and ER92-516-000, Entergy Services, Inc. Proposal to charge market-based rates.
E-2.
Omitted
E-3.
Docket No. ER91-313-001, Pennsylvania Electric Company. Rehearing of order acting on opportunity cost pricing for transmission service.

Oil and Gas Agenda

I. Pipeline Rate Matters

PR-1.
Reserved

II. Producer Matters

PF-1.
Reserved

III. Pipeline Certificate Matters

PC-1.
Docket Nos. RP89-161-000, *et al.*, RP89-172-000, CP90-2275-000, CP91-687-000 and RS92-1-000, ANR Pipeline Company. Order on proposed settlement and motion for consolidation proceedings.

Dated: June 17, 1992.

Lois D. Cashell,

Secretary.

[FR Doc. 92-14783 Filed 6-18-92; 3:59 pm]

BILLING CODE 6717-01-M

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Change in Subject Matter of Agency Meeting

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(3)(2)), notice is hereby given that at its closed meeting held at 3:37 p.m. on Tuesday, June 16, 1992, the Corporation's Board of Directors determined, on motion of Director C.C. Hope, Jr. (Appointive), seconded by Director T. Timothy Ryan, Jr. (Office of Thrift Supervision), concurred in by Director Stephen R. Steinbrink (Acting Comptroller of the Currency), Vice Chairman Andrew C. Hove, Jr., and Chairman William Taylor, that Corporation business required the addition to the agenda for consideration at the meeting, on less than seven days' notice to the public, of matters relating to the Corporation's assistance agreement with a certain financial institution.

The Board further determined, by the same majority vote, that no earlier notice of the change in the subject matter of the meeting was practicable; that the public interest did not require consideration of the matter in a meeting open to public observation; and that the matter could be considered in a closed meeting by authority of subsections (c)(4) and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(4) and (c)(9)(B)).

Dated: June 17, 1992.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Deputy Executive Secretary.

[FR Doc. 92-14674 Filed 6-17-92; 4:31 pm]

BILLING CODE 6714-01-M

NATIONAL MEDIATION BOARD

TIME AND DATE: 2:00 p.m., Monday, June 29, 1992.

PLACE: Hearing Room, Suite 850, 1425 K Street NW., Washington, DC.

STATUS: Open.

MATTERS TO BE CONSIDERED:

(1) Representation determinations issued pursuant to the Delegation Order to the Executive Director.
(2) Report on submissions in C-6451 (NMB ballot forms and procedures).
(3) New NMB Research Analyst and associated realignment of operations.
(4) DC office relocation.
(5) Automated arbitrator selection process.
(6) Other priority matters which may come before the Board for which notice will be given at the earliest practicable time.

CONTACT PERSON FOR MORE INFORMATION: Mr. William A. Gill, Jr., Executive Director, Tel: (202) 523-5920.

Date of notice: June 18, 1992.

William A. Gill, Jr.,

Executive Director, National Mediation Board.

[FR Doc. 92-14772 Filed 6-18-92; 2:12 pm]

BILLING CODE 7550-01-M

POSTAL SERVICE BOARD OF GOVERNORS

Notice of a Meeting

The Board of Governors of the United States Postal Service, pursuant to its Bylaws (39 C.F.R. Section 7.5) and the Government in the Sunshine Act (5 U.S.C. Section 552b), hereby gives notice that it intends to hold a meeting at 1:00 p.m. on Monday, July 6, 1992, and at 8:30 a.m. on Tuesday, July 7, 1992, in Washington, D.C. The July 6 meeting, at which the Board will (1) consider a filing with the Postal Rate Commission for a Discount for Bulk Small Parcel and (2) be briefed on a future filing with the Postal Rate Commission for a Mail Classification Change Regarding Delivery Point Barcoding, is closed to the public. (See 57 FR 24307, June 8, 1992)

The July 7 meeting is open to the public and will be held in the Benjamin Franklin Room on the 11th floor of U.S. Postal Service Headquarters, 475 L'Enfant Plaza, S.W. The Board expects to discuss the matters stated in the agenda which is set forth below. Requests for information about the meeting should be addressed to the Secretary of the Board, David F. Harris, at (202) 268-4800.

Agenda

Monday Session

July 6–1:00 p.m. (Closed)

1. Consideration of a Filing with the Postal Rate Commission for a Discount for Bulk Small parcels. (Frank R. Heselton, Assistant Postmaster General, Rates and Classification Department)

2. Briefing on Future Filing with the Postal Rate Commission for a Mail Classification Change Regarding Delivery Point Barcoding. (Patricia M. Gibert, Assistant Postmaster General, Customer and Automation Service Department; and Allen R. Kane, Assistant Postmaster General, Delivery, Distribution and Transportation Department)

Tuesday Session

July 7–8:30 a.m. (Open)

1. Minutes of the Previous Meeting, June 1–2, 1992
2. Remarks of the Postmaster General. (Marvin Runyon)
3. Consideration of the 1994 (Winter) and the 1996 (Summer) Olympic Games. (Deborah K. Bowker, Assistant Postmaster General, Communications Department)
4. Capital Investments
   a. Embarcadero Station (Additional Funding Request). (Mitchell H. Gordon, Senior Assistant Postmaster General, Administrative Services Group)
   b. Forensic Laboratory (Additional Funding Request). (James T. Coe, Acting Assistant Postmaster General, Facilities Department)
5. Tentative Agenda for August 3–4, 1992, meeting in San Francisco, California

David F. Harris,

Secretary.

[FR Doc. 92-14725 Filed 6-18-92; 2:11 pm]

BILLING CODE 7710-12-M

Corrections

Federal Register
Vol. 57, No. 120
Monday, June 22, 1992

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 161

[Docket No. 91-027]

Accreditation of Veterinarians

Correction

In proposed rule document 92-13068 beginning on page 23540 in the issue of Thursday, June 4, 1992, make the following corrections:

§ 161.2 [Corrected]

1. On page 23546, in the second column, in § 161.2(d)(6), in the fourth line, after "psittacosis" insert "or ornithosis".

§ 161.3 [Corrected]

2. On the same page, in the third column, in § 161.3(b), in the third line, after "report" insert ", or permit such a certificate, form, record, or report".

BILLING CODE 1505-01-D

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. 92-074-1]

Availability of Environmental Assessments and Findings of No Significant Impact Relative to Issuance of Permits to Field Test Genetically Engineered Organisms

Correction

In notice document 92-13353 beginning on page 24235 in the issue of Monday, June 8, 1992, make the following corrections:

1. On page 24236, in the first column, in the third entry, after "92-049-05" insert ", renewal of permit 91-074-01, issued on 06-05-91".

2. On page 24237, under the table, in the first column, in the last line of the first paragraph, after "1979" insert ", and 44 FR 51272-51274, August 31, 1979".

BILLING CODE 1505-01-D

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[Docket No. 920384-2084]

RIN 0648-AE72

Process for the Management of Highly Migratory Species

Correction

In notice document 92-12484 beginning on page 22718 in the issue of Friday, May 29, 1992, make the following correction:

On page 22725, in the first column, in the sixth line from the bottom, "1870 consecutive" should read "180 consecutive".

BILLING CODE 1505-01-D

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. CP92-497-000, *et al.*]

Columbia Gas Transmission Corp., et al; Natural Gas Certificate Filings

Correction

In notice document 92-12767 beginning on page 23215 in the issue of Tuesday, June 2, 1992, make the following correction:

On page 23216, in the first column, in the second line, "and CP91-65-000]" should read "and CP91-65-001]".

BILLING CODE 1505-01-D

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 766 and 799

[OPPTS-40023; FRL 4045-9]

Technical Amendments to Test Rules and Consent Orders

Correction

In rule document 92-13862 beginning on page 24958 in the issue of Friday, June 12, 1992, make the following correction:

§ 799.1053 [Corrected]

1. On page 24960, in the second column, in § 799.1053(g)(1), beginning in the eighth line, "[insert date...Register]" should read "June 12, 1992".

BILLING CODE 1505-01-D

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY-010-02-4410-02]

Worland District Multiple Use Advisory Council; Meeting

Correction

In notice document 92-13753 appearing on page 24809 in the issue of Thursday, June 11, 1992, in the second column, in the fifth line, "June 10, 1992" should read "July 10, 1992".

BILLING CODE 1505-01-D

NUCLEAR REGULATORY COMMISSION

10 CFR Parts 19 and 20

RIN 3150-AA38

Standards for Protection Against Radiation

Correction

In rule document 92-13065 appearing on page 23929 in the issue of Friday, June 5, 1992, in the 3rd column, in the 15th line, "January 14, 1992," should read "January 24, 1992,".

BILLING CODE 1505-01-D

federal register

Monday
June 22, 1992

Part II

Department of the Interior

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants: Six Plants and Myrtle's Silverspot Butterfly From Coastal Dunes in Northern and Central California; Dwarf Iliau, a Hawaiian Plant; and 'Ihi'Ihi, a Fern; Rules

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018-AB56

Endangered and Threatened Wildlife and Plants; Six Plants and Myrtle's Silverspot Butterfly From Coastal Dunes in Northern and Central California Determined To Be Endangered

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The U.S. Fish and Wildlife Service (Service) determines endangered status pursuant to the Endangered Species Act of 1973, as amended (Act), for six plants and one butterfly: *Chorizanthe howellii* (Howell's spineflower), *Chorizanthe valida* (Sonoma spineflower), *Erysimum menziesii* (Menzies' wallflower), *Gilia tenuiflora* ssp. *arenaria* (Monterey gilia), *Layia carnosa* (beach layia), *Lupinus tidestromii* (clover lupine), and Myrtle's silverspot butterfly (*Speyeria zerene myrtleae*). These species are restricted to northern and central California within the foredunes and dune scrub communities and associated habitats occupied by coastal scrub or coastal terrace prairie. The six plant taxa are threatened by one or more of the following: Commercial and residential development, competition from alien plants, off-road vehicle use, equestrian use, trampling by hikers and possibly livestock, sand mining, disposal of dredged material, and perhaps stochastic (i.e., random) extinction by virtue of the small isolated nature of the remaining populations. The butterfly is threatened by the following actions: Commercial and residential development, off-road vehicle use, loss of the larval foodplant and adult nectar resources due to replacement of the native plants by alien plants and inappropriate levels of grazing, and perhaps stochastic extinction of the remaining isolated populations. This rule implements the Federal protection and recovery provisions afforded by the Act for plants and butterfly.

EFFECTIVE DATE: June 22, 1992.

ADDRESSES: The complete file for this rule is available for public inspection, by appointment, during normal business hours at the U.S. Fish and Wildlife Service, Sacramento Field Office, 2800 Cottage Way, room E-1823, Sacramento, California 95825.

FOR FURTHER INFORMATION CONTACT: Mr. Chris Nagano, at the above address (916/978-4866).

SUPPLEMENTARY INFORMATION:

Background

Chorizanthe howellii, Chorizanthe valida, Erysimum menziesii, Gilia tenuiflora ssp. *arenaria, Layia carnosa,* and *Lupinus tidestromii* are endemic to the coastal dunes of northern and central California. Within these dune systems, the six plants are restricted to the coastal foredunes and coastal dune scrub communities and associated habitats occupied by coastal scrub or coastal terrace prairie. The butterfly is found on coastal dunes, coastal terrace prairie, northern coastal scrub, and associated non-native grassland habitat. The foredunes (also referred to as littoral dunes (Barbour and Johnson 1977) or coastal strand (Cooper 1919, Munz and Keck 1950)) are situated immediately above the lower, non-vegetated portion of the beach or littoral strip.

In the dune systems north of Monterey Bay, sand-stabilizing rhizomatous grasses, *Ammophila arenaria* and *Elymus mollis,* generally dominate the vegetation of the foredunes (Barbour and Johnson 1977). *Ammophila arenaria,* European beachgrass or marram grass, is an alien species that has largely replaced the native *Elymus*-dominated foredune community. According to Sauer (1988), European beachgrass "has become a powerful geomorphic agent (along the California coast) by building fairly continuous wall-like foredunes, which were not previously characteristic of this region." Although the *Elymus*-dominated foredune community exists around Monterey Bay, these foredunes typically consist of low hillocks and mounds that are sparsely populated with generally succulent, tap-rooted, perennial herbs (e.g., *Abronia latifolia, Ambrosia chamissonis, Calystegia solandella, Camissonia* spp., *Carpobrotus aequilaterus, C. edulis, Fragaria chiloensis*) (Barbour and Johnson 1977). Many plant associations and topographic features, which have been created by the wind, water table, and vegetation, occur behind the foredunes and its associated plant community. The numerous names (e.g., deflation area, stabilized ridge, vernal pool hollow, open dune pioneer community, dune-mat community, *Poa-Lathyrus* phase, scrub zone, dune chaparral, climax dune forest) used by plant ecologists (Cooper 1919, Johnson 1963, Parker 1974, McBride and Stone 1976, Barbour and Johnson 1977, Woodhouse 1982, Renner *et al.* 1986, Pickart 1987) to describe these "backdune" habitats have complicated the literature. Aside from supplanting the native *Elymus*-dominated community in the foredunes, the stabilization of the dunes by *A. arenaria* has permitted the colonization of formerly active backdune areas with a mixture of native and alien plants (Sauer 1988). The generally stabilized backdune areas occupied by the species proposed herein can be characterized as a soft, woody, dense plant community of short shrubs and subshrubs (<2 meters (m) (6.6 feet (ft)) tall), and herbaceous plants. Often referred to as coastal dune scrub (cf. Holland 1986), several plants (e.g., *Artemisia pycnocephala, Baccharis piluaris, Ericameria ericoides, Lupinus arboreus, L. chamissonis, Scrophularia californica*) are commonly associated with this community.

Aside from the beachgrass, many other alien plants have invaded these plant communities. Introduced taxa that are now established include sea-rocket (*Cakile* spp.), ice plant or sea-fig (*Carpobrotus* spp.), and several annual grasses and forbs generally restricted to wetland habitats within the dunes (Barbour and Johnson 1977, Sauer 1988). In addition to the beachgrass, which has been used in dune stabilization projects along the Pacific Coast since 1869 (Cooper 1967), bush lupine (*Lupinus arboreus*), a shrub native to the dunes of central and southern California, has been sown into the dune systems north of San Francisco Bay since 1900 (Miller 1987). In some cases, these aliens have outcompeted and largely supplanted the native dune vegetation, including the six plants proposed herein and the foodplants of Myrtle's silverspot butterfly.

Aside from the impact of exotic vegetation, many of the areas harboring populations of the six plants and butterfly are threatened by proposed commercial and residential development. The historical use of some dune systems by the military has resulted in "heavy damage" (Cooper 1967). Off-road vehicle use has damaged the fragile plant communities in these dune systems and remains a significant threat to the six plants and butterfly on both public and private lands. Trampling of the native flora by equestrians, hikers (Brown 1987), and perhaps livestock (Clark and Fellers 1986) threatens the plants. Other factors adversely affecting coastal dunes and the seven species proposed herein include sand mining, disposal of dredged material from adjacent bays and waterways, and perhaps stochastic extinction by virtue

of the small isolated nature of the remaining populations.

Discussion of the Seven Species Proposed Herein for Listing Follows:

Chorizanthe howellii (Howell's spineflower) was first collected by Mathews in 1914 from the sand dunes north of Fort Bragg in Mendocino County. Based on a collection made by John Thomas Howell in 1929, Goodman (1934) described and named the species in Howell's honor in 1934. *Chorizanthe howellii*, a member of the buckwheat family (Polygonaceae), is a shaggy-haired, short (3 to 10 centimeters (cm) (1.2 to 3.9 inches (in))), annual herb with spatula-shaped, 1 to 3 cm (.4 to 1.2 in) long, basal leaves, and spreading to decumbent stems that branch from the base. Flowers, which appear May through July and are white to rose in color, generally range from 3.5 to 4.5 millimeters (mm) (.14 to .18 in) in length (Reveal and Hardham 1989).

Characteristics of the species' flowers, habit, tepals (petal-like sepals) involucres (whorl of bracts subtending the flowers), and involucral teeth and awns separate *Chorizanthe howellii* from other annual species in the genus. Restricted to coastal foredunes and adjacent sandy habitats occupied by coastal prairie, the species is discontinuously distributed within the southern portion of the dunes south of Tenmile River. This dune system, referred to as the "Tenmile River" dunes by Cooper (1967), stretches continuously for about 8 kilometers (km) (5 miles) from the mouth of Tenmile River to Laguna Point, with isolated dunes as far south as Pudding Creek on the north edge of the community of Fort Bragg.

Chorizanthe valida (Sonoma spineflower) was originally collected by Ilya Vosnesensky in 1841 (Reveal and Hardham 1989). Given the ambiguity of his collection label, the collection location is not clear. Watson (1877), who described the species from Vosnesensky's material in 1877, referred to "Russian Colony" as the type locality. Though Reveal and Hardham (1989) listed the type locality as "near Fort Ross" in Sonoma County, Davis and Sherman (1990) speculated that Vosnesensky may have collected the type of specimen from the Point Reyes Peninsula in Marin County.

Chorizanthe valida, a member of the buckwheat family (Polygonaceae), is an erect to spreading, 1 to 3 decimeters (dm) (3.9 to 11.8 in) tall, shaggy-haired, annual herb with 1 to 5 cm (.4 to 2.0 in) long, basal leaves that are typically wider near the tip. Flowers, which appear June through August and are white to lavender to rose in color, are 5 to 6 mm (.20 to .24 in) long (Reveal and Hardham 1989) and occur in dense, ball-shaped, pinkish clusters with green bracts below. As with *C. howellii*, characteristics of the species' flowers, habit, tepals, and awns separate *C. valida* from other taxa. Today the species is restricted to sandy places within coastal prairie near the south end of Abbotts Lagoon, which is immediately adjacent to the "Point Reyes" dune system. According to Cooper (1967), this dune system ranges for about 19 km (12 miles) from south of Tomales Point to Point Reyes within Point Reyes National Seashore in Marin County. Thought to be extinct, the plant was rediscovered by a group of amateur botanists in 1980 at Abbotts Lagoon (Davis and Sherman 1990). Although the Park Service has enclosed this population within a 360-acre pasture to protect plants from grazing cattle, only about 2,500 plants grew in the enclosure in 1988. The species was more widespread and historically grew south of the Abbotts Laboon population near the old Point Reyes post office (Reveal and Hardham 1989). According to the California Natural Diversity Data Base (CNDDB), however, a putative collection of *C. valida* from Rodeo Lagoon in Marin County actually came from Abbotts Lagoon. Additional historical collections of this spineflower were made near Petaluma and Sebastopol in the interior portion of Sonoma County (Reveal and Hardham 1989). Given the extensive urbanization in this area, these localities are considered extinct (Reveal and Hardham 1989).

Erysimum menziesii (Menzies' wallflower) was first collected from the Monterey area by Archibald Menzies during the Vancouver expedition in 1792 to 1794. Hooker (1830), citing Menzies' collection as the type, described the plant as *Hesperis menziesii* in 1830. Though Bentham and Hooker (1862) subsequently placed the species within the genus *Chieranthus*, von Wettstein (1889) appropriately transferred the plant to the genus *Erysimum*. Subsequent taxonomic treatments of North American wallflowers by Rossbach (1940, 1958) and Price (1987) have maintained *E. menziesii* as a distinct species. Although Price recognizes three subspecies of the plant, he has yet to formally describe these new subspecies.

Erysimum menziesii, a member of the mustard family (Brassicaceae), is a low (<3 dm (11.8 in) tall), succulent, rosette-forming, biennial to short-lived perennial herb. Throughout most of its range, the species produces dense clusters of bright yellow flowers in the winter and early spring (i.e., January to April). However, the populations near Marina in Monterey County flower in early summer (i.e., May to June). The characteristic fleshy, spoon-shaped, rosette leaves of *E. menziesii* and *E. concinnum* are used to distinguish these coastal species from other native wallflowers. The divergent fruits or siliques, and smaller (<10 mm (.4 in)), consistently yellow petals of *E. menziesii* separate the species from *E. concinnum*. *Erysimum menziesii* is discontinuously distributed within the coastal foredune community of four dune systems. The northernmost dune system, referred to as "Humboldt Bay" by Cooper (1967), stretches from the mouth of the Little River to Centerville Beach south of the Eel River in Humboldt County. Within these dunes, the species is restricted to a 19-km (12-mile) stretch between the mouths of the Mad River and Humboldt Bay (i.e., Samoa Peninsula). *Erysimum menziesii* also occurs within the Tenmile River dune system in Mendocino County and the "Monterey Bay" dune system, which according to Cooper (1967), ranges from La Selva (north of the mouth of the Pajaro River) to the City of Monterey in Monterey County. Within the Monterey Bay dune system, the species does not occur north of the mouth of the Salinas River. Several small discontinuous populations occur within this 21-km (13-mile) reach. The southernmost populations of *E. menziesii* exist in the "Monterey Peninsula" dune system, as defined by Cooper (1967). The Monterey Peninsula dunes, which are localized and limited in size, occur in two general areas: Point Pinos to Point Joe and north of Point Cypress. The species occurs in both areas. Putative collections of *E. menziesii* from north of Mendocino in Mendocino County and from north of Lake Talawa in Del Norte County are *E. concinnum* (Price 1987).

Gilia tenuiflora ssp. *arenaria* (Monterey gilia) was first collected by David Douglas in the early 1800's. Bentham (1833) described the plant as a species in 1833, based on Douglas' collection. In 1943, Jepson reduced the gilia to a variety of *G. tenuiflora*, a widespread species restricted to sandy habitats on Santa Rosa Island and within the central coastal portion of California (Jepson 1943). Subsequently, Grant and Grant (1956) elevated the plant to subspecific rank.

Gilia tenuiflora ssp. *arenaria*, a member of the phlox family (Polemoniaceae), is an erect, short (<1.7 dm (6.7 in) tall), rosette-forming, annual herb. The narrow (2 to 4 mm (.08 to .16 in)) petals and narrow purple throat of

the funnel-shaped flower, open inflorescence, short fruits or capsules (3.5 to 5 mm (.14 to .20 in)), and slightly exerted stamens separate ssp. *arenaria* from the other three subspecies of *G. tenuiflora*. The plant is restricted to isolated occurrences within wind-sheltered, sparsely vegetated portions of the Monterey Bay and Monterey Peninsula dune systems in Monterey County. The subspecies typically grows within coastal dune scrub or Flandrian dune habitat (Pavlik *et al.* 1987). The Monterey Peninsula populations range from Point Pinos to Point Joe.

Layia carnosa (beach layia) was originally collected by Thomas Nuttall reportedly from "St. Diego, Upper California" in 1835. Citing his collection as the type, Nuttall (1841) described the species as *Madaroglossa carnosa* in 1841. Two years later, Torrey and Gray (1843) transferred the plant and the other species of *Madaroglossa* into the genus *Layia*. Although Greene (1892) placed *L. carnosa* into the monotypic genus *Blepharipappus*, authors of subsequent floras (Munz 1959, Ferris 1960) concurred with Torrey and Gray.

Layia carnosa, a member of the sunflower family (Asteraceae), is a low (<15 cm (5.9 in)), glandular, succulent, winter annual. Highly branched individuals often spread more than 4 dm (15.7 in) in diameter. The sticky fleshy leaves, short (2 to 4 mm (.08 to .16 in)) white-colored ray flowers, and bristles about the summit of the achene (one-seeded fruit) differentiate *L. carnosa* from other species in California. Historically, *L. carnosa* was restricted to widely scattered, isolated occurrences within the coastal foredunes of eight dune systems. The northernmost occurrences of *L. carnosa* are from the Humboldt Bay dune system in Humboldt County. These populations ranged from near the mouth of the Little River and along the Samoa Peninsula. Exotic vegetation and highway construction reportedly eliminated *L. carnosa* and the rest of the native plant community from the Little River area. *Layia carnosa* occurs in two isolated dune systems not discussed by Cooper (1967): Near the mouth of McNutt Gulch and south of the mouth of the Mattole River in Humboldt County. The species has been collected from near Kehoe Beach and Abbotts Lagoon in the Point Reyes dune system. Though collected from the San Francisco Peninsula in San Francisco County in 1904, the development of Golden Gate Park and growth of San Francisco eliminated this population and dune system (Cooper 1967). Within the Monterey Peninsula dune system, two of the four known occurrences have been eliminated. Although suitable habitat remains, the southernmost location of *L. carnosa* from near Surf in Santa Barbara County has not been seen since 1929. This site occurs within the "Santa Ynez River" dune system, as defined by Cooper (1967).

Lupinus tidestromii (clover lupine) was first collected from Pacific Grove on the Monterey Peninsula by Ivar Tidestrom in 1893. Greene (1895) described the species based on the Tidestrom collection in 1895. After Eastwood (1938) described a similar lupine (*L. layneae*) from Point Reyes, Munz (1958) recognized these northern California plants as a variety of *L. tidestromii*. The presence of blackish spots on the seeds, longer inflorescence stems (4 to 8 cm (1.57 to 3.15 in)), and shorter hairs on the leaves and stems separate *L. tidestromii* var. *tidestromii* (Monterey Peninsula) from *L. tidestromii* var. *layneae* (Point Reyes Peninsula).

Lupinus tidestromii, a member of the pea family (Fabaceae), is a low (1 to 3 dm (3.94 to 11.81 in)), silky, creeping, sand-binding perennial herb. The species produces whorls of blue to lavender-colored flowers from May to June. The generally prostrate habit, bright yellow roots, small leaflets (1.3 to 2 cm (.51 to .79 in) long), and densely pubescent foliage distinguish *L. tidestromii* from other lupines. Restricted to coastal foredunes, the species is discontinuously distributed in three dune systems. The northernmost locality is an isolated population along the south bank of the Russian River near its mouth in Sonoma County. Further south within the Point Reyes dune system, Clark and Fellers (1986) noted the occurrence of three isolated stands of *L. tidestromii* from Abbotts Lagoon to Point Reyes Test Station. However, based on field work in 1988 (Viginia Norris, local amateur botanist, *in litt.*, May and June 1988), the species likely is more abundant within the Point Reyes dune system. The Monterey Peninsula populations range from Point Pinos to Pebble Beach. A putative collection of *L. tidestromii* from Bodega Head in Sonoma County in 1925 may be misidentified because of the limited dune habitat from this general area and the vegetative condition of the specimen.

Myrtle's silverspot butterfly (*Speyeria zerene myrtleae*) is a member of the brush-foots family (Nymphalidae). Using specimens collected by W.F. Breeze from San Mateo, San Mateo County, California, in July and August of 1919, dos Passos and Grey (1945) described the butterfly in 1945. This subspecies is a medium-sized butterfly with a wingspan of approximately 55 mm (2.17 in). The upper surfaces of the wings are golden brown with numerous black spots and lines. The undersides are brown, orange-brown, and tan with black lines and distinctive silver and black spots. The basal areas of the wings and body are densely pubescent (hairy). The females lay their eggs in the debris and dried stems of the larval foodplant *Viola* sp. (McCorkle and Hammond 1988). Upon hatching, the caterpillars wander a short distance and spin a silk pad upon which they pass the winter. The larvae are dark-colored with many sharp branching spines on their backs. The caterpillars immediately seek out the foodplant upon termination of their diapause in the spring. This portion of the life history of the butterfly may last about 7 to 10 weeks. The larvae then form their pupa within a chamber of leaves that they have drawn together with silk. Based on studies of a related subspecies, the adults may emerge in about 2 weeks and could live for approximately 3 weeks (McCorkle 1980). Depending upon environmental conditions, the flight period of this single brooded butterfly ranges from late June to early September (Sterling Mattoon, entomologist from Chico, California, *in litt.*, August 4, 1989).

The historical range of Myrtle's silverspot butterfly extends from San Mateo County north to the mouth of the Russian River in Sonoma County (Mattoon, *in litt.*, August 4, 1989). No butterflies have been observed recently at the known population sites near Pacifica and San Mateo in San Mateo County. Four populations are known to inhabit coastal terrace prairie, coastal bluff scrub, and associated non-native grassland habitats in western Marin and southwestern Sonoma Counties. Two populations are located within the Sonoma State Beaches in Sonoma County; near Portuguese Beach and on the peninsula west of Bodega Harbor. No individuals were observed in the vicinity of Bodega Bay in 1991 (Murphy and Launer 1991). A population occurs on coastal dunes in Point Reyes National Seashore in Marlin County (Mattoon, *in litt.*, August 4, 1989). A single female specimen was recorded from Valley Ford in Sonoma County, which is approximately 13 km (8 miles) inland from the community of Bodega Bay. This lone butterfly may have been from a local colony or a dispersing individual.

Federal government actions on these six plants began as a result of section 12 of the Endangered Species Act of 1973, which directed the Secretary of the Smithsonian Institution to prepare a

report on those plants considered to be endangered, threatened, or extinct. This report, designated as House Document No. 94–51, was presented to Congress on January 9, 1975. In the report, *Chorizanthe valida* was thought to be possibly extinct, both varieties of *Lupinus tidestromii* (vars. *tidestromii* and *layneae)* were listed as endangered species, and *Chorizanthe howellii* and *Erysimum menziesii* were listed as threatened species. On July 1, 1975, the Service published a notice in the **Federal Register** (40 FR 27823) of its acceptance of the report as a petition within the context of section 4(c)(2) (now section 4(b)(3)(A)) of the Act, and of the Service's intention thereby to review the status of the plant taxa named within. On June 16, 1976, the Service published a proposed rule in the **Federal Register** (41 FR 24523) to determine approximately 1,700 vascular plant species to be endangered species pursuant to section 4 of the Act. The list of 1,700 plant taxa was assembled on the basis of comments and data received by the Smithsonian Institution and the Service in response to House Document No. 94–51 and the July 1, 1975, **Federal Register** publication. *Chorizanthe valida*, and both varieties of *Lupinus tidestromii* were included in the proposed rule, though the Service requested additional information on *C. valida*. General comments received in relation to the 1976 proposal were summarized in an April 26, 1978, **Federal Register** publication (43 FR 17909), which also determined 13 plant species to be endangered or threatened.

The Endangered Species Act Amendments of 1978 required that all proposals over 2 years old be withdrawn. A 1-year grace period was given to proposals over 2 years old. In the December 10, 1979, **Federal Register** (44 FR 70796), the Service published a notice of withdrawal of that portion of the June 16, 1976, proposal, along with four other proposals that had expired. On December 15, 1980, the Service published a revised notice of review of native plants in the **Federal Register** (45 FR 82480); *Chorizanthe valida, Erysimum menziesii, Gilia tenuiflora* ssp. *arenaria, Lupinus tidestromii* var. *layneae*, and *L. tidestromii* var. *tidestromii* were included as category-1 species (species for which the Service has sufficient data in its possession to support a listing proposal as endangered or threatened), while *Chorizanthe howellii* was included as a category-2 species (species for which data in the Service's possession indicate listing is possibly appropriate, but for which additional biological information is needed to support a proposed rule). On November 28, 1983, the Service published in the **Federal Register** (48 FR 53640) a supplement to the 1980 notice of review. This supplement treated *Chorizanthe valida* and *Lupinus tidestromii* var. *layneae* as category-2 species. *Erysimum menziesii, Gilia tenuiflora* ssp. *arenaria*, and *Lupinus tidestromii* var. *tidestromii* were included in category 1, and *Chorizanthe howellii, C. valida*, and *Lupinus tidestromii* var. *layneae* were included in category 2 in the September 27, 1985, revised notice of review for plants (50 FR 39526). Subsequently, precise survey information by Teresa Sholars (Department of Botany, University of California, Berkeley) delineated the threats facing *Chorizanthe howellii* and field work by Clark and Fellers (1986) and other National Park Service researchers provided the necessary information regarding the status of *Chorizanthe valida* and the Point Reyes populations of *L. tidestromii* (i.e., *L. tidestromii* var. *layneae*). In addition, the California Native Plant Society and the Nature Conservancy recently compiled distribution and threat data delineating the status of *Layia carnosa*. As a result, the February 21, 1990, Plant Notice of Review included all six plant species as category 1 candidates. The portion of this rule to list *Chorizanthe howellii, C. valida, Erysimum menziesii, Gilia tenuiflora* ssp. *arenaria, Layia carnosa*, and *Lupinus tidestromii* as endangered is largely based on population data from numerous botanists that have been collated by the CNDDB, and various reports and studies discussed in this rule (see "References Cited" below).

Section 4(b)(3)(B) of the Endangered Species Act, as amended in 1982, requires the Secretary to make findings on certain pending petitions within 12 months of their receipt. Section 2(b)(1) of the 1982 amendments further requires that all petitions pending on October 13, 1982, be treated as having been newly submitted on that date. This was the case for *Chorizanthe howellii, C. valida, Erysimum menziesii*, and the two varieties of *Lupinus tidestromii* because the 1975 Smithsonian report was accepted as a petition. In October 1983, 1984, 1985, 1986, 1987, 1988, 1989 and 1990 the Service found that the petitioned listing of *Chorizanthe howellii, C. valida, Erysimum menziesii, Lupinus tidestromii* var. *layneae*, and *L. tidestromii* var. *tidestromii* was warranted, but that the listing of these species was precluded due to other higher priority listing actions.

On March 20, 1975, Myrtle's silverspot butterfly was listed as one of 42 insects whose status was being reviewed for listing as either endangered or threatened by the Service in the **Federal Register** (40 FR 12691). This insect was included as a category 2 species in the January 6, 1989, **Federal Register** Animal Notice of Review (54 FR 573). Dr. Dennis Murphy of the Center for Conservation Biology, Stanford University, Stanford, California, petitioned the Service to list Myrtle's silverspot butterfly as an endangered species in a letter dated June 28, 1989, that was received on June 29, 1989. The Service made a 90-day finding on October 2, 1990, that the petition contained substantial information indicating that the action requested may be warranted. This finding was announced in the November 1, 1990, **Federal Register** (55 FR 46080). On November 21, 1991, the Service published a revised Animal Notice of Review (56 FR 58804) and included the Myrtle's silverspot butterfly as a category 1 candidate. The portion of this rule to list Myrtle's silverspot butterfly is largely based on scientific and commercial information on the species, various scientific papers and unpublished reports (Hammond 1980, McCorkle 1980, McCorkle and Hammond 1988), and information gathered from several entomologists, including Mr. Sterling Mattoon and Mr. John Steiner.

On March 22, 1991, the Service published a proposed rule in the **Federal Register** (56 FR 12318) to list the six plants and Myrtle's silverspot butterfly as endangered.

Myrtle's silverspot butterfly has a limited distribution (i.e., seven sites) and specific habitat requirements. The subspecies faces threats from commercial and residential development, off-road vehicle use, loss of the larval foodplant and adult nectar resources due to replacement of the native plants by alien plants and inappropriate levels of grazing, and perhaps stochastic extinction of the remaining isolated populations. This species faces an immediate threat from a proposal to construct a golf course on the site of one of the largest remaining populations (Arnold 1990; Marin Coast Associates undated). The project, as proposed, would result in the loss of a significant amount of habitat utilized by Myrtle's silverspot butterfly with a concomitant loss of individuals on the 1254-acre site located north of Dillion Beach in Marin County. With only seven known populations remaining, the loss or reduction in size of this colony, one of the two largest colonies remaining,

would be significant and could be potentially devastating to the subspecies. Because of the immediate threat posed by this project proposal, the Service finds that good cause exists for this rule to take effect immediately upon publication in accordance with 5 U.S.C. 553(d)(3).

Summary of Comments and Recommendations

In the March 22, 1991, proposed rule (56 FR 12318) and associated notifications, all interested parties were requested to submit factual reports or information relevant to a final decision on the listing proposal. Appropriate State agencies, county governments, Federal agencies, scientific organizations, and other interested parties were contacted and requested to comment. Notice of the proposal and public hearing (see below) were published in the Eureka Times Standard, Ukiah Daily Journal, Fort Bragg Advocate-News, Santa Rosa Press Democrat, Marin Independent Journal, Point Reyes Light, San Francisco Chronicle, San Mateo Times, Santa Cruz Sentinel, Salinas Californian, Monterey Herald, San Luis Obispo Telegram-Tribune, Santa Maria Times, and the Santa Barbara News-Press.

Two parties requested a public hearing. As a result, the Service conducted a hearing on July 10, 1991, at the Marin County Civic Center in San Rafael, California. Testimony was taken from 7 p.m. to 9 p.m. One person presented testimony. On June 21, 1991, the Service published a notice in the **Federal Register** (56 FR 28522) announcing the public hearing and reopening the comment period until July 22, 1991. The comment period was reopened from November 22, 1991, to December 6, 1991 (56 FR 58869) to accept additional information of which the Service had become aware.

During the comment periods, the Service received 13 written and oral testimony comments. The California Department of Fish and Game and the California Department of Parks and Recreation were among the six commenters expressing support for the listing proposal, while three commenters opposed or asked for a delay in the listing proposal. Four commenters were neutral, although some of these individuals provided locality or miscellaneous data on the species. Written comments and oral statements obtained during the public hearing and comment period are combined in the following discussion. Opposing comments and other comments questioning the rule have been organized into specific issues. These issues and the Service's response to each are summarized as follows:

Issue 1: One commenter felt that the combination of habitat descriptions for all of the proposed species resulted in a vague description of the habitat utilized by Myrtle's silverspot butterfly.

Service Response: The information presented in the "Background" and "Summary of Factors Affecting the Species" in the proposed rule and the final rule, as well as in the supporting material supplied to the commenter provide a comprehensive description of the habitat of the six plants and the butterfly species. However, to insure clarity, the Service has included additional clarification on the habitats utilized by the butterfly in this final rule.

Issue 2: One commenter expressed concern that the population of Myrtle's silverspot butterfly at the site of the proposed golf course in Marin County is found in areas of blufftop grass and scrub at elevations up to 182 m (600 ft) above a rocky cliff-faced shoreline and not in the habitat described in the proposed rule.

Service Response: The proposed rule stated that Myrtle's silverspot butterfly is found in coastal dunes, coastal terrace prairie, and associated habitats. Coastal terrace prairie is composed of dense, tall grassland that is up to 1 m (3.3 ft) tall, dominated by both sod and tussock-forming perennial grasses (Holland 1986). The distribution of this habitat is discontinuous along the coastline from Santa Cruz County north to the Oregon border. Myrtle's silverspot butterfly also was found in coastal bluff scrub and associated non-native grassland at the site of the proposed golf course in western Marin County. Coastal bluff scrub is composed of low continuous or more scattered plant species that are often prostrate and range from 5 to 50 cm (2.5 to 19.7 in) high. Dwarf shrubs, herbaceous perennials, and annual plants are represented. Most growth and flowering occurs in late spring and early summer, but may occur almost year round (Holland 1986). Holland (1986) describes non-native grassland as habitat with dense to sparse cover of annual grasses with flowering culms that are 0.2 to 0.5 m (7.9 to 19.7 in) tall. It is often associated with numerous species of showy-flowering native annual forbs, especially in years of favorable rainfall. This habitat intergrades with coastal prairie along the central coast (Holland 1986). The Service has clarified the habitats utilized by Myrtle's silverspot butterfly in the final rule.

Issue 3: One commenter contended that it was inappropriate to draw conclusions about the life history of Myrtle's silverspot butterfly using a study of the life history of the threatened Oregon silverspot butterfly (*Speyeria zerene hippolyta*) in the proposed rule.

Service Response: The paper cited in the proposed rule (McCorkle and Hammond 1988) was a comprehensive study of the life history of the threatened Oregon silverspot butterfly. Both this butterfly and Myrtle's silverspot butterfly are coastal subspecies of the same species. The paper also presented some comparative life history data on these two animals. The Service concludes that the use of the study by McCorkle and Hammond (1988) is valid because the biology and ecology of the members of the genus *Speyeria* are very similar and the Oregon silverspot butterfly and Myrtle's silverspot butterfly are closely related to each other.

Issue 4: One commenter felt that the threat of overcollecting of Myrtle's silverspot butterfly was overstated and contended that this was incorrectly used as justification for not designating critical habitat in the proposed rule. Another commenter requested that critical habitat be designated for *Erysimum menziesii*. She noted that the locations of the populations were locally known and relatively accessible.

Service Response: the Service is not aware of any studies on the impact to the subspecies of the removal of individuals of the Myrtle's silverspot butterfly by insect collectors. However, based on investigations of another endangered nymphalid butterfly (Gall 1984), it is likely that the Myrtle's silverspot butterfly could be adversely affected due to its isolated, possibly small populations. The impact of collecting on a butterfly population is not clear, and likely varies from species to species and site to site (Thomas 1984). Collecting from small colonies or repeated handling and marking (particularly of females and/or in years of low abundance) could seriously damage the populations through loss of individuals and genetic variability. Collection of females dispersing from a colony also can reduce the probability that new colonies will be founded. Collectors may pose a threat because they may be unable to recognize when they are depleting butterfly colonies below the threshold of recovery, especially when the area is visited for a short period of time or the studies are conducted by poorly trained biologists (Collins and Morris 1985).

Under section 4(a)(3)(A) of the Act, the Secretary must designate critical

habitat to the maximum extent prudent and determinable at the time a species is determined to be endangered or threatened. As discussed under the "Critical Habitat" section below, the Service continues to find that designation of critical habitat is not prudent for Myrtle's silverspot butterfly, *Erysimum menziesii*, as well as the other five species at this time because such designation likely would increase the threat from vandalism, collecting, and other human activities.

Issue 5: Two commenters requested that the Service postpone a final decision regarding the Myrtle's silverspot butterfly until a field study at the proposed golf course in Marin County was completed and reviewed by the Service.

Service Response: The Service reopened the comment period from November 22, 1991, to December 6, 1991, (56 FR 58869) to accept the study of Myrtle's silverspot butterfly from the commenters (Murphy and Launer 1991). The study provides additional data on the ecology of the species, as well as information on the potential impacts of the proposed golf course on this population. The study also presents data on the location of other populations of the butterfly. The Service has carefully reviewed the study (Murphy and Launer 1991) and has incorporated the results into the findings of the final rule.

Issue 6: A commenter felt that insufficient data was available on *Gilia tenuiflora* ssp. *arenaria* to make a determination whether or not listing of this species is warranted. He stated that any decision should be deferred until additional information was obtained on the distribution and ecology.

Service Response: Aside from the previously cited study on *Gilia tenuiflora* ssp. *arenaria* (Pavlik *et al.* 1987) in the proposed rule, the Service did not receive any comments that provided additional data on its precise location or ecology. Although future surveys may reveal additional small and isolated populations of the species, any newly discovered population sites likely would be imperiled by the same activities affecting other known populations. The Service believes that sufficient information is available on *Gilia tenuiflora* ssp. *arenaria* to warrant making a decision on its status. The Service maintains that the decision in this final rule is based on the best scientific and commercial information available.

Issue 7: One commenter requested that no further action be undertaken with the listing process for *Gilia tenuiflora* ssp. *arenaria* until the Sand City and Marina Dunes Habitat Conservation Plans are completed and reviewed by the Service and the California Department of Fish and Game.

Service Response: Although *Gilia tenuiflora* ssp. *arenaria* is included in the habitat conservation plans (HCPs) being prepared by the City of Marina and the City of Sand City, neither of these proposed section 10(a) incidental take permit applications have been submitted to the Service for review. Given the declining status of the plant as described in the "Summary of Factors Affecting the Species" section below, and the uncertainty as to the adequacy and approval of the HCPs, the Service concludes that listing of *Gilia tenuiflora* ssp. *arenaria* as an endangered species at this time is necessary to insure its survival and recovery.

Issue 8: One commenter stated that *Chorizanthe howellii, Erysimum menziesii, Gilia tenuiflora* ssp. *arenaria, Layia carnosa,* and *Lupinus tidestromii* exist at sites that have been or are currently being utilized by off-road vehicles (ORVs). He contended that listing of the plants was a means to deny usage of these areas by ORVs.

Service Response: The proposed rule documented the adverse impact of ORVs on populations of *Chorizanthe howellii, Erysimum menziesii, Gilia tenuiflora* ssp. *arenaria, Layia carnosa,* and *Lupinus tidestromii* in its discussion of the factors that threaten the species. The Service and other State and Federal agencies would be required to undertake a number of actions when these plants are listed as endangered species. Partial or complete closure of Federal or State lands to restrict certain activities may be required to protect these species. However, the Service will not undertake conservation activities, such as closure of areas to ORVs, where it would not benefit endangered species.

Issue 9: One commenter provided additional information on land use activities on lands owned by the California Department of Parks and Recreation. The population of *Gilia tenuiflora* ssp. *arenaria* at Asilomar State Beach is on a steep bluff face and is inaccessible to the public. Boardwalks at this site have been used to direct visitors away from sensitive dune areas and populations of *Lupinus tidestromii.*

Service Response: The comments have been noted and incorporated into the final rule.

Issue 10: One commenter stated that *Erysimum menziesii* and *Layia carnosa* are being addressed in the management plan for the North and South Spits of Humboldt Bay in Humboldt County.

Service Response: This comment has been noted and incorporated into the final rule.

Summary of Factors Affecting the Species

After a thorough review and consideration of all information available, the Service has determined *Chorizanthe howellii* Goodman (Howell's spineflower); *Chorizanthe valida* Watson (Sonoma spineflower); *Erysimum menziesii* (Hooker) Wettstein (Menzies' wallflower); *Gilia tenuiflora* Bentham ssp. *arenaria* (Bentham) A. & V. Grant (Monterey gilia); *Layia carnosa* (Nuttall) Torrey & A. Gray (beach layia); *Lupinus tidestromii* Greene (clover lupine); and Myrtle's silverspot butterfly (*Speyeria zerene myrtleae* dos Passos & Grey) should be classified an endangered species. Procedures found at section 4(a)(1) of the Endangered Species Act (16 U.S.C. 1531) *et seq.* and regulations (50 CFR part 424) promulgated to implement the listing provisions of the Act were followed. A species may be determined to be an endangered or threatened species due to one or more of the factors described in section 4(a)(1). These factors and their application to *Chorizanthe howellii* Goodman (Howell's spineflower); *Chorizanthe valida* Watson (Sonoma spineflower); *Erysimum menziesii* (Hooker) Wettstein (Menzies' wallflower); *Gilia tenuiflora* Bentham ssp. *arenaria* (Bentham) A. & V. Grant (Monterey gilia); *Layia carnosa* (Nuttall) Torrey & A. Gray (beach layia); *Lupinus tidestromii* Greene (clover lupine); and Myrtle's silverspot butterfly (*Speyeria zerene myrtleae* dos Passos & Grey) are as follows:

A. The Present or Threatened Destruction, Modification, or Curtailment of Their Habitat or Range

All seven species included in this final rule (*Chorizanthe howellii, Chorizanthe valida, Erysimum menziesii, Gilia tenuiflora* ssp. *arenaria, Layia carnosa, Lupinus tidestromii* and Myrtle's silverspot butterfly) are restricted to the coastal foredunes, coastal dune scrub communities, and/or adjacent sandy habitats occupied by coastal scrub or coastal prairie of the coastal dunes of northern and central California. The imminent threat facing these species and their associated habitats is the ongoing and threatened destruction and adverse modification of these dune systems by commercial and residential development, off-road vehicle use, trampling by hikers and equestrians, sand mining, and disposal of dredged

material from adjacent bays and waterways.

Chorizanthe howellii is endemic to the Tenmile River dune system, which is immediately north of the community of Fort Bragg (see "Background" section for locality data). All known sites for this species occur within MacKerricher State Park. Because of a lack of any preservation or management strategy for *C. howellii* on park land, the species has been variously affected or is threatened, to some degree, by off-road vehicle use and trampling by hikers and equestrians (CNDDB, *in litt.*, November 25, 1985).

Chorizanthe valida is restricted to one population within the Point Reyes National Seashore (see "Background" section for locality data). Other historical populations within the national seashore have been lost, while development probably eliminated *C. valida* from the Sebastopol/Petaluma area. Because cattle ranching at Point Reyes is considered part of the cultural heritage of western Marin County, the lone population still occurs within an active cattle ranch (Davis and Sherman 1990). Though the National Park Service has fenced most of the remaining population, the fenced portion remains vulnerable to accidental incursion. The preliminary results of a National Park Service monitoring study suggest that the species is not sought after by cattle for forage. However, the plants within the exclosure grew taller than their counterparts outside the exclosure. Thus , the overall effect of grazing is unknown (Davis and Sherman 1990).

Erysimum menziesii is discontinuously distributed in the coastal foredune community of four dune systems (see "Background" section for locality data). All known populations have been variously affected, to some degree, by commercial and residential development, off-road vehicle use, trampling by hikers and equestrians, sand mining, and/or disposal of dredged material from adjacent bays and waterways. Although three of the four dune systems harboring *E. menziesii* are owned, in part, by the State of California or the Federal government, this public ownership amounts to less than 10 percent of the species' habitat. Moreover, State and Federal lands remain subject to heavy recreational use by off-road vehicle and hang-glider enthusiasts, hikers, and/or equestrians. With the exception of the Lanphere-Christensen Dunes Preserve owned by The Nature Conservancy, the privately owned stands of *E. menziesii* , including the approximately 642 acres of dunes and former dunes on the Samoa Peninsula owned by the City of Eureka, are typically adjacent to expanding urban centers (e.g., Eureka, Monterey Peninsula) and subject to potential or proposed coastal development (e.g., $25 million port expansion on the Samoa Peninsula, residential and commercial development within the Marina Dunes in Monterey County). *Erysimum menziesii* and *Layia carnosa* are being addressed in the management plan for the North and South Spits of Humboldt Bay in Humboldt County; however, this comprises only a portion of the ranges of these species.

Gilia tenuiflora ssp. *arenaria* is restricted to isolated sites within coastal dune scrub in two dunes systems in Monterey County (see "Background" section for locality data). The construction of a golf course in 1987 near Spanish Bay on the Monterey Peninsula eliminated a portion of a population of *G. tenuiflora* ssp. *arenaria*. The developer attempted to mitigate for the project via the transplantation of this subspecies, *E. menziesii*, and *L. tidestromii* on an artificial dune. However, the effort "has not been successful" (Vernal Yadon, Pacific Grove Natural History Museum, pers. comm., April 14, 1989). Though a portion of perhaps the largest population of *G. tenuiflora* ssp. *arenaria* occurs on State land (i.e., Salinas River State Beach), the area remains subject to off-road vehicle use, and trampling by hikers and equestrians. The population at Asilomar State Beach is on a steep bluff face and is inaccessible to the public. Commercial and residential development near Marina, Seaside, Sand City, and on the Monterey Peninsula threatens the remaining populations.

Layia carnosa was discontinuously distributed within the coastal foredunes of seven dune systems (see "Background" section for locality data). According to the CNDDB, the Little River migrated north and eroded away the dune habitat near the river mouth. As a result, the northernmost occurrence of *L. carnosa*, which is part of the Humboldt Bay dune system, has been extirpated. In addition, urbanization destroyed the dunes in San Francisco while the southernmost locality of the species, which is on Vandenberg Air Force Base, has not been seen since 1929. Recreational, commercial, and residential development likely caused the elimination of the northernmost sites of *L. carnosa* on the Monterey Peninsula. Although portions of the six dune systems harboring the species occur on Federal land (i.e., Bureau of Land Management, Point Reyes National Seashore), these populations, which are often associated with *Erysimum menziesii* (see discussion above), are threatened by off-road vehicle use, trampling by hikers and equestrians, sand mining, disposal of dredged material from adjacent bays and waterways, and/or perhaps trampling by livestock. Except for the population on the Lanphere-Christensen Dunes Preserve, the privately-owned sites and the lands owned by the City of Eureka are subject to future commercial and residential development and many of the threats facing publicly-owned dunes.

Lupinus tidestromii, a coastal foredunes species occasionally associated with *Erysimum menziesii* and *Layia carnosa*, occurs near the mouth of the Russian River and is discontinuously distributed on the Point Reyes and Monterey Peninsulas (see "Background" section for locality data). Golf course construction eliminated two known sites from the Monterey Peninsula. Though *L. tidestromii* occurs, in part, on Federal land (i.e., U.S. Coast Guard, Point Reyes National Seashore), trampling by hikers and perhaps livestock threatens these populations. Boardwalks at Asilomar State Beach have been used to direct visitors away from sensitive areas and populations of this species. The privately-owned sites, which are all from the Monterey Peninsula, are zoned for residential use and are therefore subject to future residential or recreational development.

Myrtle's silverspot butterfly has been extirpated from a significant portion of its range. The last known collections of the butterfly from the San Francisco Peninsula were made in 1919. Reportedly the Pacifica colony was extirpated in the 1950's. Urban development likely eliminated both populations. The species is now only known from coastal dunes and coastal terrace prairie in western Marin and Sonoma Counties. No individuals were observed in the vicinity of Bodega Bay in 1991 (Murphy and Launer 1991). Before this portion of the coast was developed for residential and recreational purposes, it contained a significant colony of the animal. The size of the population at Point Reyes National Seashore has been reduced in comparison to previous years, although the cause is unknown (Mattoon, pers. comm, August 4, 1989). Uncontrolled human foot traffic may pose a threat to the colonies in Sonoma County. This activity could harass, injure, or kill individuals of Myrtle's silverspot butterfly by trampling the early life stages, larval foodplants, or adult nectar sources. Significant portions of the area inhabited by a large colony of the species would be eliminated by a

proposed 1254-acre golf course north of Dillion Beach in Marin County (Marin Coast Associates undated, Harding Lawson Associates 1990, Murphy and Launer 1991).

B. Overutilization for Commercial, Recreational, Scientific, or Educational Purposes

Although butterflies are a popular group with insect collectors, capture and permanent removal of individuals generally does not threaten most species (Pyle *et al.* 1981). However, based on studies of another endangered nymphalid butterfly (Gall 1984), overcollecting could place the small isolated populations of the Myrtle's silverspot butterfly at risk. The majority of museum specimens were collected at Point Reyes National Seashore. Overutilization is not presently applicable to the six plants, although unrestricted collecting for scientific or horticultural purposes or excessive visits by individuals interested in seeing rare plants could result from increased publicity, and could seriously impact these plants.

C. Disease or Predation

With the possible exception of *Chorizanthe valida*, no data exist to substantiate whether predation by grazing livestock threatens any of the plants. No data exist on the effects of disease or predation for Myrtle's silverspot butterfly.

D. The Inadequacy of Existing Regulatory Mechanisms

Under the Native Plant Protection Act (Chapter 1.5 § 1990 *et seq.* of the Fish and Game Code) and California Endangered Species Act (Chapter 1.5 § 2050 *et seq.*), the California Fish and Game Commission has listed *Chorizanthe valida, Erysimum menziesii, Layia carnosa*, and a variety of *Lupinus tidestromii* (var. *tidestromii*) as endangered; and *Chorizanthe howellii* and *Gilia tenuiflora* ssp. *arenaria* as threatened (14 California Code of Regulations § 670.2). Though both statutes prohibit the "take" of State-listed plants (Chapter 1.5 § 1908 and § 2080), State law appears to exempt the taking of such plants via habitat modification or land use change by the landowner. After the California Department of Fish and Game notifies a landowner that a State-listed plant grows on his or her property, State law evidently requires only that the landowner notify the agency "at least 10 days in advance of changing the land use to allow salvage of such plant." (Chapter 1.5 § 1913). Myrtle's silverspot butterfly is not specifically protected under State or local law.

E. Other Natural or Manmade Factors Affecting Their Continued Existence

The introduction and invasion of California's ecosystems by alien plants has adversely affected native flora, including the six plants and the food plant of the butterfly addressed herein. As discussed in the "Background" section, numerous aliens or exotics (e.g., *Ammophila arenaria, Cakile* spp., *Carpobrotus* spp.) have invaded these native plant communities (Barbour and Johnson 1977, Sauer 1988). Moreover, a California native plant, bush lupine (*Lupinus arboreus*) was introduced into the dune systems north of San Francisco Bay (Miller 1987). Often these introduced and alien plants outcompete and largely supplant the native vegetation. For example, European beachgrass and bush lupine dominate much of the dune habitat near Humboldt Bay, while sea-fig carpets extensive portions of the dune habitat north of Fort Bragg and from Marina to Monterey. Absent control and eradication programs, the introduced and alien taxa will continue to invade and eliminate the remaining native plant communities, including the six plants proposed herein and the host plants of Myrtle's silverspot butterfly.

Typically, annuals and other monocarpic plants (individuals that die after flowering and fruiting), including five of the six plants addressed herein, are vulnerable to random fluctuations or variation (stochasticity) in annual weather patterns and other environmental factors (Huenneke *et al.* 1986). Most of the populations of the six plants are isolated from other conspecific populations and consist of a few thousand plants distributed in patches of 1 acre to 100 acres or more. Such populations, including the entire species in the case of *Chorizanthe valida*, are vulnerable to stochastic extinction.

As briefly mentioned above under Factor "A", trampling by livestock may contribute to the endangerment of *Layia carnosa* and *Lupinus tidestromii*. In addition, *Chorizanthe valida* and *Erysimum menziesii* grow in areas grazed by livestock. The effect of trampling needs further study. Myrtle's silverspot butterfly occurs in disjunct populations whose long-term persistence may depend upon intercolony movement. The loss of suitable habitat containing larval food plants and adult nectar sources may make such movement more difficult by increasing the distance the insects must travel to successfully reach other colonies. Inappropriate levels of grazing by livestock may pose a threat to the extant populations. Intensive grazing could cause the loss of larval foodplants and adult nectar sources. The elimination of grazing and the complete suppression of fires could allow other plants to outcompete the species required by Myrtle's silverspot butterfly. Alien plants, such as iceplant and European beach grass, may eliminate colonies of the animal by outcompeting the larval foodplant and the adult nectar resources. Sufficient densities of *Viola* are especially critical for the long term survival of populations of Myrtle's silverspot butterfly (Mattoon, *in litt.*, August 4, 1989). A summary of the effect of adverse environmental factors on the genus *Speyeria* is summarized in Hammond and McCorkle (1983).

The Service has carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by these species in determining to issue this final rule. Based on this evaluation, the preferred action is to list *Chorizanthe howellii, Chorizanthe valida, Erysimum menziesii, Gilia tenuiflora* ssp. *arenaria, Layia carnosa, Lupinus tidestromii*, and Myrtle's silverspot butterfly as endangered. Although biologists have confirmed only a relatively few extirpations in recent times (Myrtle's silverspot butterfly has been lost from two sites while CNDDB records indicate nine extirpations of known "occurrences" of the six plants), *Chorizanthe howellii, Chorizanthe valida, Erysimum menziesii, Gilia tenuiflora* ssp. *arenaria, Layia carnosa, Lupinus tidestromii*, and Myrtle's silverspot butterfly have limited historical distributions and likely have been eliminated from all but a small fraction of their historical dune or associated habitats. Today these species generally persist as small, isolated populations or "islands" surrounded by urban areas, roads, trails, agricultural lands, competing alien plants, and other lands made unsuitable for these seven taxa by sand mining, the placement of dredged spoils, or foot traffic. Although many of the remaining populations are owned and managed, at least in part, by local, State, or Federal government agencies, the areas owned by local governments remain subject to development, while the other publicly-owned areas are affected generally by exotic vegetation encroachment and subject to trampling by off-road vehicles, hang-glider enthusiasts, hikers, equestrians, and occasionally livestock. In addition, stochastic events, which commonly adversely affect small

isolated populations, may result in the extirpation of some populations of these species. Because these six plants and butterfly are in danger of extinction throughout all or a significant portion of their ranges, they fit the definition of endangered as defined in the Act.

Critical Habitat

Section 4(a)(3), of the Act, as amended, requires that to the maximum extent prudent and determinable, the Secretary designate critical habitat at the time a species is determined to be endangered or threatened. The Service finds that designation of critical habitat is not prudent for these species at this time. Because the six plants and Myrtle's silverspot butterfly face numerous anthropogenic threats (see Factor A in "Summary of Factors Affecting the Species"), the publication of precise maps and descriptions of critical habitat in the **Federal Register** would make these species more vulnerable to incidents of vandalism and, therefore, could contribute to the decline of these species. The listing of these species as endangered also publicizes their rarity and, thus, could make them attractive to researchers or collectors of rare plants and butterflies. The proper agencies have been notified of the locations and management needs of these plants. As discussed under "Summary of Factors Affecting the Species," Myrtle's silverspot butterfly and its habitat are vulnerable to several activities, some of which, such as the removal of specimens for scientific or personal collections, could be carried out by an individual or few people. This activity can be difficult to regulate and control because it can be done in a fairly discrete manner. The precise pinpointing of localities that would result from publication of critical habitat descriptions and maps in the **Federal Register** would increase enforcement problems because this species would be more vulnerable to collecting as well as vandalism to its habitat. The National Park Service, which manages the largest known population of the butterfly, is already aware of the insect's presence. Landowners will be notified of the general location and importance of protecting habitat of these species. Protection of these species' habitats will be addressed through the recovery process and the section 7 consultation process. Therefore, the Service finds that designation of critical habitat for the six plants and butterfly is not prudent at this time, because such designation likely would increase the degree of threat from vandalism, collecting, or other human activities.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Endangered Species Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain activities. Recognition through listing encourages and results in conservation actions by Federal, State, and private agencies, groups, and individuals. The Endangered Species Act provides for possible land acquisition and cooperation with the States and requires that recovery actions be carried out for all listed species. The protection required of Federal agencies and the prohibitions against certain activities involving listed plants are discussed, in part, below.

Section 7(a) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened and with respect to its critical habitat, if any is being designated. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR part 402. Section 7(a)(2) of the Act requires Federal agencies to insure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of such a species or to destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into formal consultation with the Service.

Federal activities potentially impacting one or more of the six plants and Myrtle's silverspot butterfly likely will involve navigation and port-related activities, recreation-related projects (e.g., off-road vehicle parks), and perhaps grazing practices on Federal land. Populations of four of the six plant species and butterfly occur, at least in part, on Federal land. A 130-acre portion of the dunes on the Samoa Peninsula, which harbors *Erysimum menziesii* and *Layia carnosa*, is managed by the Bureau of Land Management (BLM). The latter species also occurs within the dunes near the mouth of Mattole River on land managed by the BLM. *Chorizanthe valida*, *Layia carnosa*, *Lupinus tidestromii*, and Myrtle's silverspot butterfly are discontinuously distributed within the dunes or in adjacent sandy habitats along the western shore of Point Reyes National Seashore. *Erysimum menziesii* occurs within the dunes near the Point Pinos lighthouse on the Monterey Peninsula on land controlled by the U.S. Coast Guard. A historical site of *Layia carnosa* is administered by the Department of Defense at Vandenberg Air Force Base. Activities relating to the maintenance of harbors and waterways, and other actions regulated by the U.S. Army Corps of Engineers (Corps) under the River and Harbor Act of 1899 (33 U.S.C. 401 *et seq.*) and section 404 of the Federal Water Pollution Control Act Amendments of 1972 may affect the six plants and butterfly. Such Federal activities, including recreation-related projects and perhaps grazing practices on Federal land, may be subject to section 7 review.

Listing of these six plants and butterfly as endangered will provide for the development of a recovery plan (or plans) for them. Such a plan(s) will bring together both State and Federal efforts for their conservation. The plan(s) will establish a framework for agencies to coordinate activities and cooperate with each other in conservation efforts. The plan(s) will set recovery priorities and estimate costs of various tasks necessary to accomplish them. It also will describe site-specific management actions necessary to achieve conservation and survival of the six plants and butterfly.

The Act and its implementing regulations found at 50 CFR 17.61, 17.62, and 17.63 for endangered species set forth a series of general prohibitions and exceptions that apply to all endangered plants. With respect to the six plants proposed herein, all trade prohibitions of section 9(a)(2) of the Act, implemented by 50 CFR 17.61, apply. These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to import or export; transport in interstate or foreign commerce in the course of a commercial activity; sell or offer for sale in interstate or foreign commerce; or to remove and reduce to possession these species from areas under Federal jurisdiction; maliciously damage or destroy any listed plant on any area under Federal jurisdiction; or remove, cut, dig up, or damage or destroy listed plants on any other area in knowing violation of any State law or regulation, or in the course of any violation of a State criminal trespass law. Certain exceptions apply to agents of the Service and State conservation agencies.

The Act and implementing regulations found at 50 CFR 17.21 set forth a series of general prohibitions and exceptions that apply to all endangered wildlife. With respect to Myrtle's silverspot butterfly, these prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to

take (including harass, harm, pursue, hunt, shoot, wound, kill, trap, capture or collect; or attempt any such conduct), import or export, transport in interstate or foreign commerce in the course of commercial activity, or sell or offer for sale in interstate or foreign commerce any listed wildlife species. It is also illegal to possess, sell, deliver, carry, transport, or ship any such wildlife that has been taken illegally. Certain exceptions apply to agents of the Service and State conservation agencies.

The Act and 50 CFR 17.62 and 17.63 also provide for the issuance of permits to carry out otherwise prohibited activities involving endangered plants under certain circumstances. Permits also may be issued to carry out otherwise prohibited activities involving endangered wildlife species under certain circumstances. Regulations governing permits for endangered wildlife are at 50 CFR 17.22 and 17.23. Such permits are available for scientific purposes, to enhance the propagation or survival of the species, to alleviate economic hardship in certain circumstances, and/or for incidental take in connection with otherwise lawful activities. The Service anticipates few trade permits would ever be sought or issued for any of the six plants or the butterfly. Requests for copies of the regulations on plants and inquiries regarding them may be addressed to the Office of Management Authority, U.S. Fish and Wildlife Service, room 432, 4401 N. Fairfax Drive, Arlington, Virginia 22203–3507 (703/358–2104).

National Environmental Policy Act

The Fish and Wildlife Service has determined that an Environmental Assessment, as defined by the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to section 4(a) of the Endangered Species Act of 1973, as amended. A notice outlining the Service's reasons for this determination was published in the **Federal Register** on October 25, 1983 (48 FR 49244).

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Authors

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List of Subjects in 50 CFR Part 17

Endangered and threatened species, Export, Import, Reporting and recordkeeping requirements, and Transportation.

Regulations Promulgation

PART 17—[AMENDED]

Accordingly, part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, is amended, as set forth below:

1. The authority citation for part 17 continues to read as follows:

Authority: 16 U.S.C. 1361–1407; 16 U.S.C. 1531–1544; 16 U.S.C. 4201–4245; Pub. L. 99-625, 100 Stat. 3500; unless otherwise noted.

2. Amend § 17.11(h) by adding the following, in alphabetical order under "INSECTS", to the List of Endangered and Threatened Wildlife:

§ 17.11 Endangered and threatened wildlife.

* * * * *

(h) * * *

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
*	*	*	*	*	*	*	
INSECTS							
*	*	*	*	*	*	*	
Butterfly, Myrtle's silverspot	*Speyeria zerene myrtleae*	U.S.A. (CA)	NA	E	472	NA	NA
*	*	*	*	*	*	*	

3. Amend § 17.12(h) by adding the following, in alphabetical order under the families indicated, to the List of Endangered and Threatened Plants:

§ 17.12 Endangered and threatened plants.

* * * * *

(h) * * *

Species		Historic range	Status	When listed	Critical habitat	Special rules
Scientific name	Common name					
*	*	*	*	*	*	
Asteraceae—Aster family:						
*	*	*	*	*	*	
Layia carnosa	Beach layia	U.S.A. (CA)	E	472	NA	NA
*	*	*	*	*	*	
Brassicaceae—Mustard family:						
*	*	*	*	*	*	
Erysimum menziesii	Menzies' wallflower	U.S.A. (CA)	E	472	NA	NA
*	*	*	*	*	*	
Fabaceae—Pea family:						
*	*	*	*	*	*	
Lupinus tidestromii	Clover lupine	U.S.A. (CA)	E	472	NA	NA
*	*	*	*	*	*	
Polemoniaceae—Phlox family:						
*	*	*	*	*	*	
Gilia tenuiflora ssp. *arenaria*	Monterey gilia	U.S.A. (CA)	E	472	NA	NA
*	*	*	*	*	*	
Polygonaceae—Buckwheat family:						
Chorizanthe howellii	Howell's spineflower	U.S.A. (CA)	E	472	NA	NA
Chorizanthe valida	Sonoma spineflower	U.S.A. (CA)	E	472	NA	NA
*	*	*	*	*	*	

Dated: June 2, 1992.

Bruce Blanchard,

Acting Director, U.S. Fish and Wildlife Service.

[FR Doc. 92-14227 Filed 6-19-92; 8:45 am]

BILLING CODE 4310-55-M

DEPARTMENT OF THE INTERIOR

50 CFR Part 17

RIN 1018-AB36

Endangered and Threatened Wildlife and Plants; Determination of Endangered Status for Wilkesia hobdyi (Dwarf Iliau), a Hawaiian Plant

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The U.S. Fish and Wildlife Service (Service) determines a Hawaiian plant, *Wilkesia hobdyi* (dwarf iliau), to be endangered under the authority of the Endangered Species Act of 1973, as amended (Act). This species is known from three small populations with a total of about 400 individuals. Three additional, unconfirmed observations, which may be of this species, have been reported. The known populations and the unconfirmed sightings are all from the nearly vertical rock outcrops on the Na Pali Coast of western Kauai, Hawaiian Islands. The greatest immediate threats to the survival of this species are browsing and habitat disturbance by feral goats. Goat predation and the concomitant habitat disturbance accelerates erosion of the habitat and facilitates the encroachment of competing species of naturalized plants. This rule implements the protection provided by the Act for this plant.

EFFECTIVE DATE: July 22, 1992.

ADDRESSES: The complete file for this rule is available for public inspection, by appointment, during normal business hours at the U.S. Fish and Wildlife Service, Pacific Islands Office, 300 Ala Moana Boulevard, room 6307, P.O. Box 50167, Honolulu, Hawaii 96850.

FOR FURTHER INFORMATION CONTACT: Derral R. Herbst, at the above address (808/541-2749 or FTS 551-2749; FAX 808/541-2756.

SUPPLEMENTARY INFORMATION:

Background

Wilkesia hobdyi was discovered by Robert W. Hobdy on Polihale Ridge, Kauai, in 1968. He sent a specimen of the plant to the late Dr. Harold St. John, a botanist who was affiliated with the Bishop Museum herbarium. St. John described the plant as a new species and named it in Hobdy's honor (St. John 1971). This population is believed to comprise between 250 and 300 plants (Hawaiian Heritage Program (HHP) 1991a). In 1982, a population of about 100 individuals of the species was discovered on the adjacent Kaaweiki ridge (HHP 1991b). A third population, estimated to be between 10 to 50 individuals, was discovered on a cliff face in Waiahuakua Valley in 1988 (HHP 1991d). Today, only these three populations, estimated to comprise between 360 to 450 individuals, are known. All populations occur on State-owned land, on the island and county of Kauai, Hawaii. Two of the populations are in the Puu Ka Pele Forest Reserve, growing on the north-facing, nearly vertical rock outcrops near the summits of the adjacent Polihale and Kaaweiki ridges. The third population grows on a cliff face in Waiahuakua Valley, on the boundary between the Hono O Na Pali Natural Area Reserve and the Na Pali Coast State Park, approximately ten miles (16 kilometers) northeast of the other two populations. Three additional, unconfirmed observations, which may be of this species, have been reported. The observations were made from a distance with binoculars. The first observation was made by the State botanist during a survey of the Na Pali Coast in 1979, and was in the Nualolo-Aina Valley (HHP 1991e). The population comprised about ten plants (Carolyn Corn, State Botanist, pers. comm., 1990). The plants were not seen during a follow-up survey of the area five years later, and the observer stated that the species may be a good indicator plant for the presence of grazing animals (C. Corn, pers. comm. 1992). The second observation was that of a single plant on a cliff wall in Milolii Valley (HHP 1991c; C. Corn, pers. comm. 1990). The sighting was made during a botanical survey of the Na Pali Coast in 1980, and the plant was not seen during a subsequent survey in 1989 (C. Corn, pers. comm. 1990). The third observation, made on March 6, 1991, was of an estimated 30 to 40 plants seen by binoculars on Haeleele Ridge, the ridge south of Polihale Ridge (Joel Lau, HHP, pers. comm., 1991). The known populations and the unconfirmed sightings are all from the nearly vertical rock outcrops on the Na Pali Coast of western Kauai, Hawaiian Islands. There are at least two other species of plants in this area that from a distance superficially resemble *Wilkesia hobdyi*. It is not known how it was determined that the observations were of *W. hobdyi*.

Wilkesia hobdyi, a member of the sunflower family (Asteraceae), is a shrub about 2 feet (60 centimeters (cm)) tall, which branches from the base. The tip of each branch bears a tuft of narrow leaves which are about ½ inch (in) (1.3 cm) wide and about 3 to 6 in (7.5 to 15 cm) long. The leaves, which are in whorls, are joined together into a short sheathing section at their bases. The flower heads are in clusters of about 10 to 18 in (25 to 45 cm) long. Each head is cream colored and about ¾ in (2 cm) in diameter (Carr 1982, 1990; St. John 1971).

The greatest immediate threats to the survival of this species are habitat disturbance and browsing by feral goats. The goats browse on the plant and their activity in the area accelerates erosion and facilitates the encroachment of competing, naturalized plants. Although the low number of individuals and their restricted habitat could be considered a potential threat to the survival of the species, the plant appears to have vigorous reproduction and should survive indefinitely if goats were eliminated from its habitat. A cooperative effort between Federal and State agencies is needed to protect the remaining plants and to provide for the species' recovery.

Federal action on this plant began as a result of section 12 of the Act, which directed the Secretary of the Smithsonian Institution to prepare a report on plants considered to be endangered, threatened, or extinct in the United States. This report, designated as House Document No. 94-51, was presented to Congress on January 9, 1975. *Wilkesia hobdyi* was listed as "endangered" in that document. On July 1, 1975, the Service published a notice in the **Federal Register** (40 FR 27823) of its acceptance of the Smithsonian report as a petition within the context of section 4(c)(2) (now section 4(b)(3)) of the Act,

and giving notice of its intention to review the status of the plant taxa named therein. As a result of that review, on June 16, 1976, the Service published a proposed rule in the **Federal Register** (41 FR 24523) to determine endangered status pursuant to section 4 of the Act for approximately 1,700 vascular plant species, including *Wilkesia hobdyi*. The list of 1,700 plant taxa was assembled on the basis of comments and data received by the Smithsonian Institution and the Service in response to House Document No 94–51 and the July 1, 1975, **Federal Register** publication.

General comments received in relation to the 1976 proposal are summarized in an April 26, 1978, **Federal Register** publication (43 FR 17909). In 1978, amendments to the Act required that all proposals over 2 years old be withdrawn. A 1-year grace period was given to proposals already over 2 years old. On December 10, 1979, the Service published a notice in the **Federal Register** (44 FR 70796) withdrawing the portion of the June 16, 1976, proposal that had not been made final, along with four other proposals that had expired. The Service published an updated notice of review for plants on December 15, 1980 (45 FR 82479), and September 27, 1985 (50 FR 39525). In these notices, *Wilkesia hobdyi* was treated as a category 1 candidate for Federal listing. Category 1 taxa are those for which the Service has on file substantial information on biological vulnerability and threats to support preparation of listing proposals.

Section 4(b)(3)(B) of the Act requires the Secretary to make findings on certain pending petitions within 12 months of their receipt. Section 2(b)(1) of the 1982 Amendments further requires all petitions pending on October 13, 1982, be treated as having been newly submitted on that date. The latter was the case for *Wilkesia hobdyi* because the Service had accepted the 1975 Smithsonian report as a petition. On October 13, 1983, the Service found that the petitioned listing of *Wilkesia hobdyi* was warranted, but precluded by other pending listing actions, in accordance with section 4(b)(3)(B)(iii) of the Act; notification of this finding was published on January 20, 1984 (49 FR 2485). Such a finding requires the petition to be recycled, pursuant to section 4(b)(3)(C)(i) of the Act. The finding was reviewed in October of 1984, 1985, 1986, 1987, and 1988.

On October 2, 1989, the Service published in the **Federal Register** (54 FR 40444) a proposal to list *Wilkesia hobdyi* as endangered. This proposal was based primarily on information supplied by a status report and a monograph of the Hawaiian tar-weed complex by Gerald Carr, information from the files of the Hawaiian Heritage Program, and observations by botanists. The Service now determines *Wilkesia hobdyi* to be endangered with the publication of this rule.

Summary of Comments and Recommendations

In the October 2, 1989, proposed rule (54 FR 40444) and associated notifications, all interested parties were requested to submit factual reports or information relevant to a final listing decision. The public comment period ended on December 1, 1989. Appropriate State agencies, county governments, Federal agencies, scientific organizations, and other interested parties were contacted and requested to comment. A newspaper notice inviting public comment was published in "The Garden Island" on October 23, 1989. Fourteen letters of comment, including one from a Federal agency, three from State agencies, seven from organizations, and three from individuals, were received and are discussed below. A public hearing was requested by Mr. Ralph Daehler on November 15, 1989. On January 9, 1990, the Service published a notice (55 FR 761) extending the initial comment period to February 5, 1990, to accommodate the requested public hearing which was to be held in Lihue, Kauai, January 26, 1990. Due to a conflict in schedules, the Service changed the date of the hearing from the original January 26, to February 23, and extended the comment period to March 5, 1990. This notice was published in the **Federal Register** (55 FR 2541) on January 25, 1990. A newspaper notice announcing the public hearing and the extension of the comment period was published in "The Garden Island" on February 2, 1990. Eleven people attended the public hearing, six presented oral comments; their testimony is included in the following summary.

Three respondents acknowledged receipt of the proposed rule but had no comments; of the remaining 11 letters, 9 supported the listing of *Wilkesia*, and 2 opposed it. Additional information included in the letters has been incorporated into this final rule. Comments of similar content were grouped into a number of general issues for discussion. These issues and the Service's response to each are discussed below.

Issue 1: Number of populations: Two respondents stated that more populations of *Wilkesia hobdyi* exist than were discussed in the proposed rule, and that there is a good possibility that more or perhaps many more populations await discovery. The proposed rule indicated that only two populations of the species were known, those of Polihale and the adjacent Kaaweiki Ridges.

Service Response: At the time the proposed rule was written, only two populations of the dwarf iliau were known; however, a third population comprising 10 to 50 plants was subsequently discovered in Waiahuakua Valley (HHP 1991d), and three additional, unconfirmed observations, which may be of this species, have been reported. All of the observations were made from a distance with binoculars. This information has been included in this final rule. One responder stated that there probably were not many additional unknown populations of the plant (Joel Lau, *in litt.*, 1989). The numbers of plants and populations of this species is sufficiently small that, given its threats, it must still be considered endangered.

Issue 2: Threat by goats: Two responders maintained that the Service's claim that the dwarf iliau is threatened by a large goat population is erroneous. They note that the goat population in the Na Pali area was much higher at the turn of the century than it is now, and the heavier use of the area by goats at that time did not lead to the extinction of the dwarf iliau. They further state that the goats do not seek out iliau as a source of food, and in fact may be beneficial as they devour many of the introduced weed species that otherwise present wildfire damage and competition potentials.

Service Response: In the State Division of Forestry and Wildlife's document "Rare endemic plants of the Hawaiian Islands" (St. John 1981), *Wilkesia hobdyi* is identified as endangered and feral grazing animals are listed as one of the threats to the species. Further, the State botanist observed a population of about ten plants in Nualolo-Aina Valley during a survey of the Na Pali Coast in 1979; the plants were not seen during a follow-up survey of the area five years later, and the botanist believes that the species may be a good indicator plant for the presence of grazing animals (C. Corn, pers. comm. 1992). The Hawaii Plant Conservation Center (HPCC) accession data also identifies the activities of feral goats to be a major threat to this species, and states that, on one occasion, 30 goats were seen in the area of the Polihale population of *W. hobdyi*

(HPCC 1991). Based on meetings with, and information provided by several botanists in Hawaii in June 1989, the Center for Plant Conservation (CPC) has identified *W. hobdyi* as a priority B species, which means that it could possibly go extinct in the wild within the next 10 years. The Center also identified very heavy goat predation as a threat to *W. hobdyi* (CPC 1990). Nine of the letters of comment or oral testimony given at the public hearing address the goat problem; all contain information that indicates that goats are the major threat to this plant. For example, Gerald Carr, a botanist at the University of Hawaii and an authority on the genus, states in his letter of comment that he has visited the Polihale population of the dwarf iliau on a number of occasions and has noted damage to the dwarf iliau from goats grazing at the site. He stated that during a visit to the population on Kaaweiki Ridge in 1985, virtually every plant he saw of the dwarf iliau was severely damaged by goat grazing. Marjorie Ziegler of the Sierra Club Legal Defense Fund, Inc., identified goat browsing as a major threat to the species in her letter of comment, and noted that goat activity in some portions of the plant's habitat has increased because of a recent 3-year period of closed hunting seasons for goats on most public lands on Kauai. Her letter, along with several others, cited the importance of goat activities other than browsing as a threat to the species. Trampling by goats, for example, loosens soil and rocks causing erosion of the habitat, a major threat to this species. These activities also enhance the encroachment of competing, naturalized plants. Plants such as molasses grass (*Melinus minutiflora*) compete with *Wilkesia hobdyi* for space, water, and nutrients, and are a potential fire hazard.

Issue 3: State regulations: Concern was expressed by three individuals during their testimony that state regulations might make the propagation or cultivation of *Wilkesia* more difficult if it were listed as endangered. State regulations prohibit possessing endangered plants or collecting their propagules. Permits to collect or possess endangered plants may be issued by the state to enhance the propagation or survival of the species, but it is difficult and burdensome to obtain these permits.

Service Response: Hawaii Administration Rules 13–124–4(a) allows for "Permits to * * * possess * * * any endangered or threatened species of wildlife or plants" to be issued "to enhance the propagation or survival of the species." If it is felt that the State permit requirements are so stringent as to be detrimental to the propagation or survival of the species, then perhaps the State may need to reassess its policy and consider amending it. The Service believes that existing State policies should not delay nor prevent the protection that listing would convey.

Issue 4: Two responders encouraged the Service to designate critical habitat for the species.

Service Response: As discussed in the "Critical Habitat" section of this rule, critical habitat is not being designated at this time as such a determination would result in no known benefit and may be detrimental to the species. The publication of descriptions and maps required when critical habitat is designated would increase the degree of threats to this plant from take or vandalism and, therefore, could contribute to its decline and increase enforcement problems. The listing of a species as endangered publicizes the rarity of the plant and, thus, can make it more desirable to researchers, curiosity seekers, or collectors of rare plants. Although only a few plants are accessible to humans because of the ruggedness of the terrain, human activity at the edges of the cliffs could dislodge rocks or soil which could damage the plants below.

Summary of Factors Affecting the Species

After a thorough review and consideration of all information available, the Service has determined that *Wilkesia hobdyi* should be classified as an endangered species. Procedures found at section 4 of the Act (16 U.S.C. 1533) and regulations (50 CFR part 424) promulgated to implement the listing provisions of the Act were followed. A species may be determined to be an endangered or threatened species due to one or more of the five factors described in section 4(a)(1). The five factors and their application to *Wilkesia hobdyi* St. John (dwarf iliau) are as follows:

A. The Present or Threatened Destruction, Modification, or Curtailment of Its Habitat or Range

The habitat of *Wilkesia* is subject to disturbance by feral goats. The high, steep ocean cliffs on which the plant grows have always been subject to erosion by wind and water. However, the activity of the goats on the narrow cliff ledges, which has resulted in the destruction of the natural vegetation, dislodged stones, and loosened the soil has accelerated the rate of erosion and allowed the ingression of aggressive weedy species such as molasses grass. This non-native, naturalized vegetation competes with *Wilkesia* for space, water, and nutrients, and is a potential fire hazard, especially during the dry season.

B. Overutilization for Commercial, Recreational, Scientific, or Educational Purposes

Not known to be a factor.

C. Disease or Predation

Browsing by feral goats probably is the greatest present threat to this species. Large herds of feral goats inhabit the cliffs upon which the plants grow and are responsible for much damage both through their predation on the plant and the concomitant habitat disturbance which favors the introduction and spread of exotic vegetation, and an increase in erosion. The large goat herds result from specific game management practices aimed at maintaining high goat population levels for hunting.

D. The Inadequacy of Existing Regulatory Mechanisms

Wilkesia hobdyi grows within the boundaries of the State-owned Puu ka Pele and Na Pali Kona Forest Reserves, and in the Hono O Na Pali Natural Area Reserve. State regulations prohibit the removal, destruction, or damage of plants found on these State lands. However, these regulations are difficult to enforce due to limited personnel. Hawaii's Endangered Species Act (HRS, sect. 195D–4(a)) states that "Any species of aquatic life, wildlife or land plant that has been determined to be an endangered species pursuant to the (Federal) Endangered Species Act shall be deemed to be an endangered species under the provisions of this chapter * * *" Further, the State may enter into agreements with Federal agencies to administer and manage any area required for the conservation, management, enhancement, or protection of endangered species (sect. 195D–5(c)). Funds for these activities could be made available under section 6 of the Federal Act (State Cooperative Agreements). Listing of this plant therefore reinforces and supplements the protection available to the species under State law. The Federal Act also offers additional protection to the species, because it is a violation of the Act for any person to remove, cut, dig up, damage, or destroy an endangered plant in an area not under Federal jurisdiction in knowing violation of any State law or regulation or in the course of any violation of a State criminal trespass law.

E. Other Natural or Manmade Factors Affecting Its Continued Existence

The small number of extant plants, and their restricted distribution makes *Wilkesia hobdyi* more vulnerable to certain threats. A single man-caused or natural environmental disturbance could destroy a significant percentage of the known individuals or populations of the species. The limited gene pool and reduced genetic variability resulting from the small population size may result in depressed reproductive vigor, although the plant appears to be adequately reproducing itself.

The Service has carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by this species in determining to make this rule final. Based on this evaluation, the preferred action is to list *Wilkesia hobdyi* as endangered. Only about 400 individuals remain in the wild, and these face threats from browsing and habitat degradation by feral goats; erosion; competition from encroaching naturalized, non-native plants; and the potential threat from fires. Because this taxon is in danger of extinction throughout all or a significant portion of its range, it fits the definition of endangered as defined by the Act. Critical habitat is not being designated for this species for reasons discussed in the "Critical Habitat" section of this rule.

Critical Habitat

Section 4(a)(3) of the Act, as amended, requires that to the maximum extent prudent and determinable, the Secretary designate critical habitat at the time the species is determined to be endangered or threatened. The Service finds that designation of critical habitat for *Wilkesia hobdyi* is not presently prudent. Such a determination would result in no known benefit and may be detrimental to the species. All production are on State land, and, due to the cliff terrain on which it grows, all but a few individual plants are inaccessible to man. The State has been notified of the location and importance of protecting this species' habitat. The publication of description and maps required when critical habitat is designated would increase the degree of threats to this plant from take or vandalism and, therefore, could contribute to its decline and increase enforcement problems. The listing of a species as endangered publicizes the rarity of the plant and, thus, can make it more desirable to researchers, curiosity seekers, or collectors of rare plants. Although only a few plants are accessible to humans because of the ruggedness of the terrain, human activity at the edges of the cliffs could dislodge rocks or soil which could damage the plants below. Protection of this species' habitat will be addressed through the recovery process. Therefore, the Service finds that designation of critical habitat for *Wilkesia hobdyi* is not prudent at this time, because such designation would increase the degree of threat from vandalism, collecting, or other human activities and because it is unlikely to aid in the conservation of this species.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain activities. Recognition through listing encourages and results in conservation actions by Federal, State, and private agencies, groups, and individuals. The Act provides for possible land acquisition and cooperation with the States, and requires that recovery actions be carried out for all listed species. The protection required of Federal agencies and the prohibitions against certain activities involving listed plants are discussed, in part, below:

Section 7(a) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened, and with respect to its critical habitat, if any is being designated. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR part 402. Section 7(a)(2) of the Act requires Federal agencies to insure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of such a species or to destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into formal consultation with the Service. No Federal involvement with *Wilkesia hobdyi* is anticipated.

The Act and its implementing regulations found at 50 CFR 17.61, 17.62, and 17.63 for endangered plant species set forth a series of general prohibitions and exceptions that apply to all endangered plants. With respect to *Wilkesia hobdyi* all trade prohibitions of section 9(a)(2) of the Act, implemented by 50 CFR 17.61 apply. These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to import or export; transport in interstate or foreign commerce in the course of a commercial activity; sell or offer for sale this species in interstate or foreign commerce; or to remove and reduce to possession any such species from areas under Federal jurisdiction; maliciously damage or destroy any such species on any area under Federal jurisdiction; or remove, cut, dig up, damage or destroy listed plants on any other area in knowing violation of any State law or regulation or in the course of any violation of a State criminal trespass law. Certain exceptions apply to agents of the Service and State conservation agencies. The Act and 50 CFR 17.62 and 17.63 also provide for the issuance of permits to carry out otherwise prohibited activities involving endangered plant species under certain circumstances. It is anticipated that few, if any, trade permits would ever be sought or issued because the species is not common in cultivation nor in the wild. Requests for copies of the regulations on plants and inquiries regarding them may be addressed to the Office of Management Authority, U.S. Fish and Wildlife Service, 4401 North Fairfax Drive, room 432–ARLSQ, Arlington, Virginia 22203–3507 (703/358–2104, FAX 703/358–2281).

National Environmental Policy Act

The Fish and Wildlife Service has determined that an Environmental Assessment or Environmental Impact Statement, as defined under the authority of the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to section 4(a) of the Endangered Species Act of 1973, as amended. A notice outlining the Service's reasons for this determination was published in the **Federal Register** on October 25, 1983 (48 FR 49244).

References Cited

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St. John (C.A. Corn, ed.). 1981. Rare endemic plants of the Hawaiian Islands. Hawaii, Department of Land and Natural Resources, Honolulu, 74 unnum. pp.

Author

The primary author of this final rule is Dr. Derral R. Herbst, U.S. Fish and Wildlife Service, Pacific Islands Office, 300 Ala Moana Boulevard, room 6307, P.O. Box 50167, Honolulu, Hawaii 96850 (808/541–2749 or FTS 551–2749).

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, and Transportation.

Regulation Promulgation

PART 17—[AMENDED]

Accordingly, part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, is hereby amended as set forth below:

1. The authority citation for part 17 continues to read as follows:

Authority: 16 U.S.C. 1361–1407; 16 U.S.C. 1531–1544; 16 U.S.C. 4201–4245; Public Law 99–625, 100 Stat. 3500, unless otherwise noted.

2. Amend § 17.12(h) adding the following, in alphabetical order under the family Asteraceae, to the List of Endangered and Threatened Plants:

§ 17.12 Endangered and threatened plants.

* * * * *

(h) * * *

Species		Historic range	Status	When listed	Critical habitat	Special rules
Scientific name	Common name					
*	*	*	*	*	*	
Asteraceae—Aster family:						
*	*	*	*	*	*	
Wilkesia hobdyi	Dwarf iliau	U.S.A. (HI)	E	473	NA	NA122
*	*	*	*	*	*	

Dated: June 2, 1992.

Bruce Blanchard,

Acting Director, Fish and Wildlife Service.

[FR Doc. 92–14228 Filed 6–19–92; 8:45 am]

BILLING CODE 4310–55–M

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50 CFR Part 17

RIN 1018–AB52

Endangered and Threatened Wildlife and Plants; Determination of Endangered Status for Marsilea villosa ('Ihi'Ihi)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The U.S. Fish and Wildlife Service (Service) determines a fern, *Marsilea villosa* ('ihi'ihi), to be endangered pursuant to the Endangered Species Act of 1973, as amended (Act). This species is known only from three small populations, two located on the island of Oahu, and a third from the island of Molokai, Hawaii. The greatest immediate threats to the survival of this species are competition from naturalized, exotic vegetation; habitat degradation by off-road vehicles, and grazing by cattle. This rule implements the protection and recovery provisions provided by the Act for this species.

EFFECTIVE DATE: July 22, 1992.

ADDRESSES: The complete file for this rule is available for public inspection, by appointment, during normal business hours at the U.S. Fish and Wildlife Service, 300 Ala Moana Boulevard, room 6307, Honolulu, Hawaii 96813.

FOR FURTHER INFORMATION CONTACT: Derral R. Herbst, at the above address (808/541–2749 or FTS 551–2749).

SUPPLEMENTARY INFORMATION:

Background

Marsilea villosa was first collected in Nuuanu Valley, Oahu, in 1817, by Louis Charles Adelbert von Chamisso, the botanist on a Russian world exploring expedition. Chamisso's fern collections were studied by George Kaulfuss who recognized the *Marsilea* as a new species and named it *Marsilea villosa* because of its hairy leaves (Kaulfuss 1824). The type specimen was deposited in the Herbarium of Higher Plants in Leningrad. At that time it apparently was widespread on Oahu, and, during the early to middle 1900's, had been collected at several sites including Barbers Point, Ewa, Kaimuki, and Makapuu, all on the southern side of the island (Bruegmann 1989). Today, only two populations are known from Oahu. One is located at Koko Head, growing on land owned by the City and County of Honolulu. The other is on the Lualualei Naval Reservation.

On the island of Molokai, *Marsilea* was first collected in 1928 at Mokio (Degener 1936), and in 1948 at Moomomi. It was last seen at those sites, along with another population in the Ilio Point area, during the mid 1970's. Surveys of these areas during 1984 failed to find the plant. In 1989, a small population was discovered on privately owned land near Laau Point, the southwestern tip of the island (Winona Char, botanical consultant, *in litt.*, 1989). *Marsilea* was collected on the eastern side of the island of Niihau, at Loe Lake in 1949. The fern was not found during a 1984 survey. This area is currently used for cattle grazing.

The three remaining populations at Koko head and the Lualualei Naval Reservation on the island of Oahu, and near Laau on Molokai are small and isolated from each other. The largest site is in the Lualualei Valley on the Naval Reservation where clumps of this plant are scattered among kiawe trees (*Prosopis pallida*), in an area of approximately 6 acres. The Koko Head population covers about 0.5 acres, but comprises the largest number of individual plants. The population on Molokai measures roughly 7 feet by 25 feet. The fern's habitat is dynamic, however, and may shrink or swell from year to year depending upon rainfall and other factors.

Marsilea villosa is an aquatic to semiaquatic fern that grows in small shallow depressions on level or gently sloping terrain. *Marsilea villosa* requires periodic flooding to complete its life cycle. The spore cases normally are produced as the habitat begins to dry up and do not ripen unless the plant is drought-stressed (Bruegmann 1986). When sufficient water is present, the plant reproduces vegetatively with young plants being produced on creeping rhizomes.

Similar in appearance to a four-leaved clover, it is 5–25 centimeters (2–10 inches) tall with four leaflets at the tip of the stem. The leaves arise in pairs, and, when fertile, each bears a small, hard spore case on a short stalk at its base. All parts of the plant may be covered with rust-colored hairs (Bruegmann 1989, St. John 1981). *Marsilea villosa* is the only member of the genus native to Hawaii and is closely related to *M. vestita* of the western coast of the United States (Forbes 1920, Christensen 1925, Johnson 1986).

The greatest immediate threats to the survival of this species are the encroachment and competition from naturalized, exotic plants, and the disturbance of areas where the plant grows by off-road vehicles or by grazing cattle. The extremely small number and size of the populations and their restricted distribution makes the species more vulnerable to stochastic events.

Federal action on this plant began as a result of section 12 of the Act, which directed the Secretary of the Smithsonian Institution to prepare a report on plants considered to be endangered, threatened, or extinct in the United States. This report, designated as House Document No. 94–51, was presented to Congress on January 9, 1975. In that document, *Marsilea villosa* was considered endangered. On July 1, 1975, the Service published a notice in the **Federal Register** (40 FR 27823) of its acceptance of the Smithsonian report as a petition within the context of section 4(c)(2) (now section 4(b)(3)) of the Act, and giving notice of its intention to review the status of the plant taxa named therein. As a result of that review, on June 16, 1976, the Service published a proposed rule in the **Federal Register** (41 FR 24523) to determine approximately 1,700 vascular plant species, including *Marsilea villosa*, to be endangered species pursuant to section 4 of the Act. The list of 1,700 plant taxa was assembled on the basis of comments and data received by the Smithsonian Institution and the Service in response to House Document No. 94–51 and the July 1, 1975, **Federal Register** publication.

General comments received in relation to the 1976 proposal are summarized in an April 26, 1978 **Federal Register** publication (43 FR 17909). In 1978, amendments to the Act required that all proposals over 2 years old be withdrawn. A 1-year grace period was given to proposals already over 2 years old. On December 10, 1979, the Service published a notice in the **Federal Register** (44 FR 70796) withdrawing the portion of the June 16, 1976, proposal that had not been made final, along with four other proposals that had expired. The Service published an updated notice of review for plants on December 15, 1980 (45 FR 82479), September 27, 1985 (50 FR 39525), and February 21, 1990 (55 FR 6183); *Marsilea villosa* was included as a Category 1 candidate on all three lists, indicating that the Service had substantial information on biological vulnerability and threats to support preparation of a listing proposal.

Section 4(b)(3)(B) of the Act requires the Secretary to make findings on certain pending petitions within 12 months of their receipt. Section 2(b)(1) of the 1982 amendments further requires all petitions pending on October 1, 1982, be treated as having been newly submitted on that date. The latter was the case for *Marsilea villosa* because the Service had accepted the 1975 Smithsonian report as a petition. On October 13, 1983, the Service found that the petitioned listing of this plant was warranted, but precluded by other pending listing actions, in accordance with section 4(b)(3)(B)(iii) of the Act; notification of this finding was published in the **Federal Register** on January 20, 1984 (49 FR 2485). Such a finding requires the petition to be recycled, pursuant to section 4(b)(3)(C)(i) of the Act. The finding was reviewed in October of 1984, 1985, 1986, 1987, 1988, 1989, and 1990. On February 15, 1991, the Service published in the **Federal Register** (56 FR 6349) a proposal to list *Marsilea villosa* as endangered. This proposal was based primarily on information supplied by a status report and master's thesis by Marie Bruegmann, and observations by botanists. The Service now determines *Marsilea villosa* to be endangered with the publication of this rule.

Summary of Comments and Recommendations

In the February 15, 1991 proposed rule and associated notifications, all interested parties were requested to submit factual reports or information relevant to a final decision on listing. The public comment period ended on April 16, 1991. Appropriate State agencies, county governments, Federal agencies, scientific organizations, and other interested parties were contacted and requested to comment. A newspaper notice inviting general public comment was published in the "Maui News" on February 28, 1991, and in "The Honolulu Advertiser" on March 2, 1991. Two letters of comment were received, one from the Department of the Navy, the other from the State Executive Chambers; both offered information which has been incorporated into this final rule, but neither stated support for nor opposition to the listing of this species.

Summary of Factors Affecting the Species

After a thorough review and consideration of all information available, the Service has determined that *Marsilea villosa* should be classified as an endangered species. Procedures found at section 4 of the Endangered Species Act (16 U.S.C. 1531 *et seq.*) and regulations (50 CFR part 424) promulgated to implement the listing provisions of the Acts were followed. A species may be determined to be an endangered or threatened species due to one or more of the five factors described in section 4(a)(1) of the Act. The five factors and their application to *Marsilea villosa* Kaulf. ('ihi'ihi) are as follows:

A. The Present or Threatened Destruction, Modification, or Curtailment of its Habitat or Range

Shading and competition for water by naturalized, exotic plants probably are the two greatest threats affecting this species. This threat from encroaching, competing exotic species affects all the known populations of the plant.

Several activities promote this invasion by alien plant species. For example, the Koko Head population has been damaged by off-road vehicles which illegally enter the area; off-road vehicles not only damage or destroy plants, but also disturb the soil promoting the ingression of competing exotic vegetation. While this population has been partially fenced through a management agreement between the City and County and The Nature Conservancy of Hawaii, the threat of damage from vehicles remains.

Some of the sites that once supported this plant have been heavily grazed by cattle. The Lualualei population grows in an area leased to private concerns for cattle pastureland. Grazing and trampling by cattle damage or destroy plants and allow intrusion by exotic vegetation; cattle also carry seeds of

exotic species into the area. However, certain benefits to the Lualualei population may be derived from the presence of the cattle, as their grazing on the exotic vegetation in some respects helps to control it, and their trampling develops potholes that may increase the fern's habitat. The Lualualei Naval Reservation is wetter than the western sides of Niihau and Molokai, thus alien plants are favored at this site. On Molokai and Niihau, where exotic vegetation in the temporary ponds is less abundant, the benefit that the fern would gain from the removal of competing alien plants or development of additional potholes resulting from grazing would not outweigh the loss of fern from trampling.

Although not documented, the Molokai population probably is adversely affected by the axis deer which are known to browse in the area. Axis deer foot prints have been seen in the mud at this site. Cattle graze nearby, but apparently not on the site.

Many of the sites that once supported the fern now contain sugar cane fields, industrial parks, housing developments, and pastures. The population at Barbers Point has been replaced by an industrial park and sugar cane fields; urban and resort developments also are proposed for the area. The Molokai site is part of a large, privately owned parcel that may be considered for future development. The species was once widespread and could be discovered at additional sites that could potentially be threatened by urbanization.

B. Overutilization for Commercial, Recreational, Scientific, or Educational Purposes

Not known to be a factor, but a small number of plants have been transplanted into private gardens, aquaria, or fish ponds, and specimens occasionally are collected for herbaria. The species is attractive and could be sought by collectors of aquatic plants or rare plants. Unrestricted collecting for scientific or horticultural purposes or excessive visits by individuals interested in seeing rare plants could result from increased publicity, and would seriously impact the species. Disturbance to the area by trampling would promote greater ingress by competing exotic species.

C. Disease or Predation

Not known to be applicable.

D. The Inadequacy of Existing Regulatory Mechanisms

At the present time, no State laws or existing regulatory mechanisms protect *Marsilea villosa* or prevent its further decline. However, Federal listing automatically invokes listing under Hawaii State law, which prohibits taking and encourages conservation by State government agencies. Hawaii's Endangered Species Act (HRS, sect. 195D–4(a)) states, "Any species of wildlife or plant that has been determined to be an endangered species pursuant to the (Federal) Endangered Species Act shall be deemed to be an endangered species under the provisions of this chapter * * *." Further, the State may enter into agreements with Federal agencies to administer and manage any area required for the conservation, management, enhancement, or protection of endangered species (sect. 195D–5(c)). Funds for these activities could be made available under section 6 of the Act (State Cooperative Agreements). Listing of this plant therefore reinforces and supplements the protection available to the species under State law. The Federal Act also offers additional protection to the species, because it is a violation of the Act for any person to remove, cut, dig up, damage, or destroy an endangered plant in an area not under Federal jurisdiction in knowing violation of any State law or regulation or in the course of any violation of a State criminal trespass law. It is also a Federal offense to remove and reduce to possession the plant from any area under Federal jurisdiction, or to maliciously damage or destroy the plant in any such area. Listing under the Act will augment State and private conservation measures for this species by providing for habitat protection through section 7 and recovery planning.

E. Other Natural or Manmade Factors Affecting its Continued Existence

The small number of populations and of individual plants makes the species more vulnerable to certain threats such as stochastic events. A single man-caused or natural environmental disturbance could destroy a significant percentage of the individuals of this species. The Koko Head population has suffered localized damage from campfires, and fire remains a potential threat.

The Service has carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by this species in determining to make this rule final. Based on this evaluation, the preferred action is to list *Marsilea villosa* as endangered. The three remaining populations face threats from the encroachment and competition from exotic species of plants, damage from off-road vehicles, and grazing and trampling by domestic cattle. Urbanization and fires remain as potential threats. Because this species is in danger of extinction throughout all or a significant portion of its range, it fits the definition of endangered as defined in the Act. Critical habitat is not being designated for this plant for the reasons discussed in the "Critical Habitat" section of this rule.

Critical Habitat

Section 4(a)(3) of the Act, as amended, requires that to the maximum extent prudent and determinable, the Secretary designate critical habitat at the time the species is determined to be endangered or threatened. The Service finds that designation of critical habitat is not presently prudent for this species. Such a determination would result in no known benefit to the species. Two of the three known populations grow on City and County or Federal land; government agencies and the private land owner can be alerted to the presence of the plant without the publication of critical habitat descriptions and maps. The publication of descriptions and maps required when critical habitat is designated would highlight the last known sites for this species and may result in increased threats of vandalism or take. As noted under factor "B," *Marsilea villosa* is an attractive plant and live specimens would be of interest to researchers, curiosity seekers, or collectors of rare or aquatic plants. All involved parties and the landowners have been notified of the general location and importance of protecting the habitat of this species. Protection of the habitat will be addressed through the recovery process and through the section 7 consultation process. Therefore, the Service finds that designation of critical habitat for *Marsilea villosa* is not prudent at this time, because such designation would increase the degree of threat from vandalism, collecting, or other human activities and because it is unlikely to aid in the conservation of this species.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Endangered Species Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing encourages and results in conservation actions by Federal, State, and private agencies, groups, and individuals. The Endangered Species Act provides for possible land acquisition and cooperation with the

State and requires that recovery actions be carried out for all listed species. The protection required of Federal agencies and the prohibitions against certain activities involving listed plants are discussed, in part, below.

Section 7(a) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened and with respect to its critical habitat, if any is being designated. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR part 402. Section 7(a)(2) of the Act requires Federal agencies to insure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of such a species or to destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into formal consultation with the Service. One of the populations of *Marsilea* is located on the Lualualei Naval Reservation in an area presently leased as pasture. The Department of the Navy will need to consult with the Service regarding this activity.

The Act and its implementing regulations found at 50 CFR 17.61, 17.62, and 17.63 for endangered plant species set forth a series of general prohibitions and exceptions that apply to all endangered plants. With respect to *Marsilea villosa* all trade prohibitions of section 9(a)(2) of the Act, implemented by 50 CFR 17.61 apply. These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to import or export; transport in interstate or foreign commerce in the course of a commercial activity; sell or offer for sale this species in interstate or foreign commerce; or to remove and reduce to possession any such species from areas under Federal jurisdiction; maliciously damage or destroy any such species on any area under Federal jurisdiction; or remove, cut, dig up, damage or destroy listed plants on any other area in knowing violation of any State law or regulation or in the course of any violation of a State criminal trespass law. Certain exceptions apply to agents of the Service and State conservation agencies. The Act and 50 CFR 17.62 and 17.63 also provide for the issuance of permits to carry out otherwise prohibited activities involving endangered plant species under certain circumstances. It is anticipated that few trade permits would ever be sought or issued because the species is not common in cultivation or in the wild.

Section 9(a)(2)(B) of the Act, as amended, prohibits the removal and reduction to possession as well as the malicious damage or destruction of endangered plant species in areas under Federal jurisdiction. This provision applies to the population of *Marsilea villosa* growing in the Laulualei Naval reservation.

Requests for copies of the regulations on plants and inquiries regarding them may be addressed to the Office of Management Authority, U.S. Fish and Wildlife Service, 4401 North Fairfax Drive, room 432–ARLSQ, Arlington, Virginia 22203–3507 (703/358–2104 or FTS 921–2232; FAX 703/358–2281).

National Environmental Policy Act

The Fish and Wildlife Service has determined that an Environmental Assessment or Environmental Impact Statement, as defined under the authority of the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to section 4(a) of the Endangered Species Act of 1973, as amended. A notice outlining the Service's reasons for this determination was published in the **Federal Register** on October 25, 1983 (48 FR 49244).

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Author

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List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and record-keeping requirements, and Transportation Regulation Promulgation.

PART 17—[AMENDED]

Accordingly, part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, is amended as set forth below:

1. The authority citation for part 17 continues to read as follows:

Authority: 16 U.S.C. 1361–1407; 16 U.S.C. 1531–1544; 16 U.S.C. 4201–4245; Pub. L. 99–625, 100 Stat. 3500; unless otherwise noted.

2. Amend § 17.12(h) by adding a new family "Marsileaceae-Pepperwort family," in alphabetical order, to the List of Endangered and Threatened Plants:

§ 17.12 Endangered and threatened plants.

* * * * *

(h) * * *

Species		Historic range	Status	When listed	Critical habitat	Special rules
Scientific name	Common name					
*	*	*	*	*	*	
Marsileaceae—Pepperwort family:						
Marsilea villosa	'Ihi'ihi	U.S.A. (HI)	E	474	NA	NA
*	*	*	*	*	*	

Dated: June 2, 1992.

Bruce Blanchard,

Acting Director, Fish and Wildlife Service.

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federal register

Monday
June 22, 1992

Part III

Department of Agriculture

Food Safety and Inspection Service

9 CFR Parts 318 and 320
Additional Curing Methods for Destroying Trichinae; Rule

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

9 CFR Parts 318 and 320

[Docket No. 89-025F]

RIN 0583-AA43

Additional Curing Methods for Destroying Trichinae

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: The Food Safety and Inspection Service (FSIS) is amending the Federal meat inspection regulations which concern processing oval (flattened) sausage and dry-cured ham and port shoulders to destroy trichinae (Trichinella spiralis larvae) which may be encysted in the pork meat component, as follows: a footnote in Method No. 6 for sausages has been amended to change the manner of determining the drying time for flattened sausages; a preface to the ham methods has been added to assure uniform calculation of processing days; Method No. 1 for dry-cured hams has been amended to permit additional combinations of drying times and temperatures already permitted in Method No. 3; Method No. 2 for dry-cured hams has been removed, since it is no longer used. Method No. 3 for dry-cured hams has been extensively amended to accommodate some traditional processing methods, to remove the permission to pump these hams, and to provide greater safety. Method No. 4 is being published as a new trichina destruction provision for ham which would permit establishments to substitute potassium chloride for salt in the curing mixture based on data which substantiates that particular curing mixture. In addition, the Agency is amending the regulations in response to petitions to provide additional trichina destruction methods for dry sausage and dry-cured ham. These methods consist of one trichina destruction method for two size ranges of dry sausage and two trichina destruction methods for dry-cured ham. Finally, a few nonsubstantive changes have been made for clarity.

EFFECTIVE DATE: July 22, 1992. The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of July 22, 1992.

FOR FURTHER INFORMATION CONTACT: William C. Smith, Director, Processed Products Inspection Division, Science & Technology, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250 (202) 720-3840.

SUPPLEMENTARY INFORMATION:

Executive Order 12291

This final rule is issued in conformance with Executive Order 12291, and has been determined to be not a "major rule." It would not result in an annual effect on the economy of $100 million or more; a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or significant adverse effects on competition, employment, investment productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Executive Order 12778

This final rule has been reviewed under Executive Order 12778, Civil Justice Reform. States and local jurisdictions are preempted under the Federal Meat Inspection Act (FMIA) from imposing any ingredient requirements or requirements with respect to the operations of any establishment at which inspection is provided under title I of the FMIA which are in addition to, or different than, the requirements of the FMIA. States and local jurisdictions, may, however, exercise concurrent jurisdiction over meat products that are outside official establishments for the purpose of preventing the distribution of meat products that are misbranded or adulterated under the FMIA, or, in the case of their entry into the United States. Under the FMIA, states that maintain meat inspection programs must impose requirements on State inspected products and establishments that are at least equal to those required under the FMIA. These States may, however, impose more stringent requirements on such State inspected products and establishments.

This rule is not intended to have retroactive effect, and there are no applicable administrative procedures that must be exhausted prior to any judicial challenge to the provisions of this rule. However, the administrative procedures specified in 9 CFR 306.5 must be exhausted prior to any judicial challenge of the application of the provisions of this rule.

Effect on Small Entities

The Administrator has determined that this rule will not have a significant economic impact on a substantial number of small entities as defined by the Regulatory Flexibility Act (5 U.S.C. 601). Approximately 480 establishments are producing dry sausage and/or dry-cured hams, a majority of which are small businesses. The Federal meat inspection regulations require that processed pork products be treated to destroy trichinae by one of several prescribed methods. This final rule provides three additional methods of treatment to destroy trichinae in certain cured pork products, as petitioned for by pork producers and, thus, gives pork producers additional flexibility in choosing a destruction method. Use of one of these additional methods in lieu of one of the methods currently prescribed is voluntary. Some country ham producers may have to change their processes slightly or make a minimal investment in equipment amounting to several hundred dollars. The Agency has determined that this is not a significant impact on these small producers. The amendment to Method No. 1 and the requirement for oval sausages were requested by processors and are voluntary, so they have a negligible effect on the industry. The amendment to Method No. 3 now accommodates some traditional processing procedures such as bag curing and it addresses the use of ambient temperature for drying, thus giving processors clearer and more flexible instructions for these uses. However, the amended Method No. 3 removes drying times at temperatures below 75 °F because research showed them to be inadequate for the times tested; this will affect 10 to 109 establishments that in 1985 reported using a drying temperature less than 75 °F and may affect another 7 establishments reported to be using temperatures less than 75 °F in combination with higher temperatures. Method No. 4, permitting the use of potassium chloride, is another additional method. It does not preclude any present method, can be used with simple technology, and partially answers a few complaints that processors receive concerning the sodium content of their products. It has a negligible effect on small entities. The brine concentration analysis required by Methods 5 and 6 for dry-cured hams will cost approximately $15 to $30 for each composite sample. The approximate cost would be $360 initially and $30 per quarter thereafter. However, these methods and the included tests are only alternatives to the methods now available and permit the application of less salt if a higher percentage is absorbed, resulting ultimately in an equivalent amount of salt in the meat. Hence, the end product test (for brine concentration) is needed rather than the

more traditional composition requirement of percent salt.

Paperwork Requirements

This rule requires dry-cured ham manufacturers wishing to utilize methods 5 and 6 to have a process control program to monitor and control the internal brine concentrations, the minimum drying times and temperatures, and the minimum total processing times of the hams. The process control program must be filed in the establishment and available for review by program employees. The manufacturer is required to use an FSIS accredited laboratory, under the provisions of 9 CFR 318.21, to conduct analyses for salt and water content for each production lot tested. The manufacturer will then use the laboratory results to perform a calculation to ensure that the internal brine concentration, a measure of the amount of salt in the product in relation to the water, is at least 6 percent. FSIS has determined that a minimum brine concentration of 6 percent provides enough salt to destroy any trichinae present in the product. The laboratory results and the results of the calculations must be filed as part of the process control program. These recordkeeping requirements have been approved by the Office of Management and Budget (OMB) under control number *0583–0065.*

Background

Trichinella spiralis or "trichina" is a parasitic worm that causes the disease trichinosis in virtually all warm-blooded animals. The most common way for humans to acquire trichinosis is to ingest undercooked pork infested with trichina cysts. Trichinosis resulting from pork consumption is far less prevalent today than in the past in part because USDA requires that all pork in ready-to-eat products be either tested for trichinae or treated to destroy or inactivate trichinae.

Since the early part of this century, USDA has required manufacturers of ready-to-eat pork products to treat them for trichinae with one of several prescribed methods. Trichina cysts can be killed by heat and they can also be killed by sufficient freezing, salting, drying, and aging. Although most ready-to-eat pork products on the market are cooked, some are made safe to eat by freezing and others by a combination of salting, drying, and aging.

On March 10, 1983, FSIS published a proposed rule in the **Federal Register** (48 FR 10065) to permit additional trichina destruction treatment methods consisting of prescribed times and internal product temperatures for freezing, combinations of smoking temperature and drying temperature for processing hams and pork shoulders, and alternate sausage drying times based on salt content, sausage diameter, and fermentation or smoking temperature and time. The final rule was published on February 7, 1985 (50 FR 5226) and became effective on August 6, 1985. On that effective date, all trichina destruction methods not in the regulations were rescinded. Many small country ham manufacturers objected to the final rule. They asserted that they were using time-tested methods and that there was no history or illness associated with their product. FSIS considered these claims to have merit and published a partial waiver of the final rule on June 18, 1985 (50 FR 25202).

Subsequently, FSIS worked with other USDA scientists to develop a general research protocol for gathering information about the mechanism of killing trichinae by curing. The research was conducted at Texas A & M.

As a result of this research, a proposal was published on April 20, 1989 (54 FR 15946). That proposal, finalized here, changed the present Method No. 3 of producing dry-cured hams and pork shoulders in a number of ways. The regulation prescribing the method is now divided into paragraphs according to the different stages of processing. A minimum percentage of salt content is specified for the curing mixture. The regulation does not specify an amount of salt in relation to the amount of meat, except in the case of the bag cure. (A bag cure is the wrapping of a ham and all of its cure in kraft paper and hanging it individually). There are now mandatory cure contact times and total curing times. For the first time, the bag cure is specifically recognized and accepted. Also, in recognition of the actual practices in the production of country ham, the regulation provides three different schedules of drying times, depending on whether the establishment elects to (1) dry the product in a temperature controlled room, (2) not control the room temperature, but monitor it and alter the drying times accordingly, or (3) ignore the temperature and operate solely by the calendar. For all establishments which operate on the basis of drying temperature, whether controlled or not, the most significant change is the removal from the drying time/temperature table of all temperatures below 75 °F. This came about as a result of the Texas A & M research which showed that lower temperatures were less effective than originally thought.

Although the changes to Method No. 3 are the most important part of the 1989 proposal, there are several other changes as well. Method No. 2 is rescinded because it is no longer used; the drying requirements for oval sausages are eased, based on the application of basic physical principles and data submitted by a manufacturer, and Method No. 4 is established to permit manufacturers to substitute potassium chloride for salt (sodium chloride) in the curing mixture based on data substantiating that particular process.

While the research that served as the basis for the 1989 proposal was being conducted, three manufacturers petitioned the Agency for amendments to the trichina regulations, asking for additional treatment methods. In response to the Agency's replies, the manufacturers sponsored additional research at two State universities. These projects were not completed until after the publication of the 1989 proposal and, thus, were not included in that publication. They were completed soon afterward and were the basis for three new proposed methods published on January 7, 1991 (56 FR 503). One of the new methods was for dry sausage and two were for prosciutto-type dry-cured hams. That proposal also contained a cautionary statement at the beginning of § 318.10(c) advising processors that these following treatments, while adequate for killing trichinae, may not be rigorous enough to kill pathogenic bacteria.

Discussion of Comments

FSIS received 14 comments on the proposed rule for processing country hams and 4 comments on the proposed rule for processing prosciutto and dry sausage. The comments and responses are listed below, first on the proposed cautionary statement and then in order of occurrence of the relevant provisions in the final rule.

The Cautionary Statement

Two representatives of industry associations commented extensively against the proposed cautionary statement. Both disagreed with the background statement "that some manufacturers may not recognize that the trichina treatment does not preclude adulteration by bacterial pathogens." The first comment stated that including the cautionary statement seemed to assume widespread ignorance throughout the industry regarding the control of trichinae versus control of pathogenic bacteria. The commenter emphatically did not agree.

Another point was that the American Meat Institute publication Good Manufacturing Practices: Fermented Dry and Semi-dry Sausages has resulted in the production of safe products free from adulteration caused by pathogenic bacteria, hence no cautionary statement is needed.

A third point was that the incidences cited by FSIS as evidence for the necessity of the cautionary statement were insufficient and probably two of them were caused by post-processing contamination.

A fourth point was that FSIS has ample regulatory authority to proceed against products adulterated by bacterial pathogens.

The Agency agrees that the cautionary statement, on balance, is best removed from the trichinae control section of the regulations as essentially irrelevant to the control of trichinae. Since the statement is being removed, and the microbiological concerns are addressed in present rules and will be further addressed in future rules as needs require, the other points need not be addressed here, except to state that the statement was intended to be helpful, not to imply widespread ignorance on the part of industry.

Comment on Sausage Treatment Methods

There was one comment by a representative of a professional association on the proposed sausage treatment method (Method No. 7). The commenter's primary concern was that the proposal used chamber temperature rather than internal product temperature. The commenter stated that, because sausages often contain meat from the diaphragm and masseter muscles (sites most likely to contain large numbers of trichina cysts in heavily infected pigs), process control is important.

The Agency agrees with the commenter's concerns and voiced the same concern when the validation protocol was first proposed by the manufacturer. The Agency was concerned that product internal temperature and room temperature would not be correlated. However, the petitioner addressed the Agency's concerns, and the data showed that room temperature was sufficiently related to internal product temperature to allow determination of the destruction of all trichinae in heavily infected pork.

The Agency also reorganized the holding times and temperatures so that, for clarity, they are all included in the tables.

Comments on Ham and Pork Shoulder Methods

One commenter questioned whether any new treatment methods were needed for country ham. He stated that there should be no trichina treatment requirement for country hams because they are generally cooked before eating.

The Agency disagrees with the comment; the requirement for treating all dry-cured hams, including country hams, for trichina destruction was fully promulgated as a part of the dry-cured ham standard in § 319.106, in response to an industry petition. Furthermore, there is considerable evidence that some consumers eat country ham without any cooking either as a common practice or as low cost alternative to prosciutto.

The same comment further asserted that there was no epidemiological data to support the need for trichina treatment of country hams, and he noted that of the over 100 country ham processes that FSIS reviewed, only 2 were found to be unacceptable. His apparent conclusion is that the present system works and no change is needed.

The Agency disagrees with the comment's premises. The commenter is correct in that only two processes were considered unacceptable; however, a number of the others were borderline on acceptability and suggestions were made to improve the process safety. The exercise demonstrated that a system of informal approvals based on limited research data is error-prone and is unacceptable.

One commenter recommended that processors be permitted to continue using the 180 day ambient temperature process inferred from the now rescinded MPI Bulletin 742. Another commenter further recommended withdrawing the proposal and permit processors to continue to use all the times and temperature in MPI Bulletin 742.

The Agency disagrees. The MPI Bulletin was shown to have had errors which were corrected in the 1985 final rule; those errors consisted of vagueness, requiring too short a drying time for the lower drying temperatures and the inference of a permitted 180 day, ambient temperature process provision. This rule further refines the times and temperatures in that bulletin which was rescinded in 1985.

Two comments from country ham processing associations recommended that FSIS conduct further research before proceeding with final rulemaking. One recommended that all present procedures be permitted until definitive testing can be accomplished.

The Agency sympathizes with the desire for definitive testing; however, it is impractical. The Agency has reviewed the testing results and information on which this rule is based, and has determined that it is sufficient to objectively establish the safety of this rule.

Two comments from country ham processor associations were on the adequacy of the research conducted at Texas A & M. One commented that the researchers did not consider the effect of percent salt in the curing mixture and expressed the belief that the percent salt in the mixture has a direct effect on trichina death. The other commenter said that the Texas A & M research used only three temperatures, instead of the full range of temperatures in MPI Bulletin 742.

The Texas A & M research addressed all of the variables necessary to construct this processing rule; additional variables, such as those suggested by the commenter, did not appear to be justified by the additional expense necessary to establish their validity. The Agency chose three temperatures to confirm (or refute) the time-temperature table in Method No. 3 (which was an amendment of the table in MPI Bulletin 742); additional temperatures would have been useful but not cost effective. The times and temperatures in the MPI Bulletin were not based on research on each temperature, instead they were based on several temperatures and times and the intermediate times and temperatures were interpolated according to acceptable scientific methods. Further, research subsequent to the publication of MPI Bulletin 742 showed the times at lower temperatures were not sufficient for safety; therefore, these were increased in Method No. 3. Because the Texas A & M research showed that the Method No. 3 time for 50 °F was inadequate, it is being removed with this amendment. Post-Texas A & M research has indicated that at 50°F, approximately 150 days are required to kill trinchinal cysts. With the submission of more data based on more research, this temperature can possibly be reinstituted into Method No. 3 with an appropriate amount of drying time.

Three commenters recommended removing the option of brine injection for Method No. 3.

The Agency included the brine injection option since it was permitted, but not mandated, in Method No. 1 and to provide flexibility to processors who may wish to use that option. However, since the standard of identity in § 319.106 prohibits brine injection, permitting it in Method No. 3 has caused some confusion among processors and the public. Few or no processors use

that option and the Agency received no comment against removing Method No. 2 in which brine injection is mandated. Therefore, the Agency is amending the proposed Method No. 3 by removing the brine injection option. Processors who may wish to use brine injection for a dry salt cured ham can still use that option in Method No. 1.

Four commenters proposed that the equalization temperature of Method No. 3 for hams and pork shoulder picnics be raised from a maximum of 55 °F to maximum of 65 °F. The rationale for their proposal was that their equipment does not operate as efficiently at 55 °F.

The Agency proposed the 55 °F limit as a maximum temperature to restrict potential pathogenic bacterial growth. Since the proposal, additional information has become available to better judge the effect of a higher temperature. The Agricultural Research Service (ARS) has developed a computer modeling program to better estimate the potential growth of various pathogens under different conditions of temperature, salt, acidity, atmosphere, and nitrite content. Using that modeling program, the Agency has determined that 55 °F is indeed safer than 65 °F, however, the lag and generation times at 60 °F are so long that the potential for growth on a dry-cured ham at 60 °F is small. Accordingly, the Agency is amending the proposed equalization temperature from a maximum of 55 °F to a maximum of 60 °F.

There were four comments on the proposed Table 5 in Method No. 3. One commenter proposed 60 °F, instead of 75 °F, as the minimum temperature for that table.

The Agency agrees that 60 °F can be a minimum drying temperature under some circumstances, since subsequent research done on prosciutto ham processing has shown that a 150 day drying period can be safe. However, at this time the use of lower drying temperatures is predicated upon careful control of the internal brine concentration. Therefore, processors wishing to use lower drying temperatures can use Method No. 5.

A commenter asked for clarification as to whether processors using ambient temperature drying and temperature recorders, as permitted in Method No. 3 for hams and pork shoulder picnics, could release product before August 31.

The answer is yes. The final rule is specific: Processors can use any of three procedures for drying, and the last two of these procedures use uncontrolled or ambient temperatures. The last drying procedure requires no temperature monitoring and permits the processor to dry by the calendar but product may not be released before August 31. The other ambient temperature drying procedure requires monitoring the internal product temperature but permits release when the time-temperature requirements of Table 5 are attained; they may be at any time during the year.

A commenter recommended allowing temperature combinations to be used without extending the requirement to 1.5 times the number of days that are otherwise required.

The use of these temperature combinations permits processors greater flexibility than does the present rule, in that it permits permutations of more than two temperatures and does not require the processor to begin with the higher temperature as Table 6 did. Although the trichina death studies have been done with constant temperatures, the use of permutations of temperatures (and their associated times), in the former Table 6 and in the provision of this rule, appears warranted since the death kinetics follow the law of mass action (rate = time × Temperature × concentration). However, because the trichina death kinetics of temperature permutations have not been researched, the Agency increased the permutated time by 1.5 to add a conservative amount of safety margin. It may well be that some or all of the added safety margin is unneeded. However, until research shows that to be true, the Agency will retain the safety margin. Therefore, the final rule contains the added time.

Two commenters objected to requiring the entire months of June, July, and August for drying hams by a non-monitored ambient temperature procedure as is permitted in Method No. 3 for hams and pork shoulder picnics. One commenter believed it was more drying time than needed and the other claimed it unfairly restricts business. Neither comment was accompanied by substantiating evidence that less drying time at ambient temperature is needed.

The Agency disagrees with the comments; the Agency carefully reviewed and evaluated the available data on trichina destruction and weather in country ham processing areas and proposed a method which seemed to be both safe and in accordance with traditional procedures. No procedure that is required for public safety can be reasonably claimed to unfairly restrict business. Those processors who wish to release their hams sooner, but not use a controlled temperature drying chamber, can use the option of recording the hams' internal temperatures.

One commenter decried the use of potassium chloride (KCl) for personal health reasons. The commenter is sensitive to excessive potassium and claimed that restaurants list the hams only as salt cured and not KCl cured.

The Agency is aware of the issue to which the comment refers, but, due to limited resources, relies on local health authorities for the accurate labeling of restaurant food. The Agency will notify local health authorities that dry-cured hams with high levels of potassium may appear on the market. The local authorities in turn should inform retail purveyors that they have a duty to convey that information to their customers.

One commenter cautioned that his experiments had shown an adverse flavor may occur from using 50 percent KCl.

The Agency has taken no position on the flavor of Country Hams since there is a wide range of organoleptic quality among the various processors. It may be that consumers of these hams will reject KCl cured hams or may prefer them. In any case the Agency has determined that the use of KCl is safe with respect to trichina safety. Also, the Agency is permitting a maximum of 50 percent KCl substitution; processors have the option of using less and adjusting their curing ingredients to achieve a product desired by their consumers.

A meat scientist asked, concerning Method No. 4, if the ionic concentration of sodium chloride (NaCl) and KCl would be used or the actual salt penetration rate.

The answer is that the control on NaCl and KCl was based on the control used in the experiment which was the physical weight of the compound applied to the meat. Therefore, neither ionic concentration nor salt penetration was used because these are based on the amount of salt taken up by the meat. In addition, this control is easier to administer and regulate.

FSIS received five comments regarding the curing times proposed for Method No. 4 for hams and pork shoulder picnics, permitting the substitution of potassium chloride (KCl) for up to half the required salt (sodium chloride—NaCl). All of the comments referred to North Carolina State research that showed that KCl increased the rate of cure penetration; thus, a longer curing period should not be required. Three of the comments also recommended prescribing only two overhauls (three applications), not the three overhauls the researcher used. (An overhaul is the turning over of a unit of product for the application of additional cure).

FSIS proposed the same procedure used by the North Carolina researcher. This was done because the research showed only that a procedure using KCl was effective by the end of the process in destroying trichinae, but not that the rate of destruction was equivalent to that of NaCl. However, since the publication of the proposal, the researcher has performed more research, and supplied more data so that with that additional information, FSIS is now amending Method No. 4 to permit two or three overhauls.

A researcher commented that Method No. 4 ought to permit soaking to remove excess cure from hams after the curing period instead of only rinsing with tap water. He noted that since Method No. 1 permits soaking, some processors prefer that to rinsing.

The Agency disagrees because no supporting evidence was submitted to demonstrate that soaking did not result in a lower brine concentration. Indeed, the Agency notes that the researcher's latest report, submitted this May, was based on rinsing with tap water, not soaking. The Agency is willing to review data which shows that soaking yields an equally safe product.

A commenter asked how the low temperature long time drying procedures used by traditional prosciutto manufacturers will be accommodated.

At the time the first proposal was published, there was no provision for the long time low temperature drying used by traditional prosciutto manufacturers, however, there was research underway to validate those procedures. That research has been completed, and a proposal covering these type processes has been published and is incorporated into this final rule as Method No. 5.

A comment was received on the proposed methods Nos. 5 and 6 for dry-cured hams. The comment, from a meat scientist, questioned the need for 6 percent brine in the biceps muscle, since his research had shown trichina destruction at lower brine concentrations, and the Texas A&M research also showed trichina destruction at lower brine concentrations, than that proposed in these two methods.

The Agency agrees that lower brine concentrations have been shown to be lethal to trichinae. However, these processes were developed by prosciutto manufacturers whose products are generally more salty than country hams. The data they furnished indicated that, at the times and temperatures they wished to use, the 6 percent brine concentration was a needed processing factor. At any rate, for these processes, with these times and temperatures, this is the only supporting data that the Agency has.

In addition to the changes made pursuant to the comments, the Agency is making a few nonsubstantive changes for clarity. Therefore, the Agency is amending the regulations as follows:

Final Rule

For the reasons discussed in the preamble, FSIS is amending Parts 318 and 320 of the Federal meat inspection regulations as set forth below.

List of Subjects in 9 CFR Parts 318 and 320

Incorporation by reference, Meat inspection.

PART 318—ENTRY INTO OFFICIAL ESTABLISHMENTS; REINSPECTION AND PREPARATION OF PRODUCTS

1. The authority for part 318 continues to read as follows:

Authority: 7 U.S.C. 450, 1901–1906; 21 U.S.C. 601–695; 7 CFR 2.17, 2.55.

2. In § 318.10, paragraph (c)(3)(i) is amended by revising the text of footnote 1 to Table 3A and adding a new method No. 7, and paragraph (c)(3)(iv) is revised to read as follows:

§ 318.10 Prescribed treatment of pork and products containing pork to destroy trichinae.

* * * * *

(c) * * *

(3) * * *

(i) * * *

Table 3A

* * * * *

[1] The drying room times for flattened or oval sausages shall use a diameter derived by measuring the circumference and dividing by 3.14 (pi).

* * * * *

Method No. 7, Dry Sausages. (A) *General Requirements.* The establishment shall use meat particles reduced in size to no more than 1/4 inch in diameter. The establishment shall add a curing mixture containing no less than 2.7 pounds of salt per hundred pounds of meat and mix it uniformly throughout the product. The establishment shall hold, heat, and dry the product according to paragraph (B) or (C) below.

(B) *Holding, Heating, and Drying Treatment, Large Sausages.* Except as permitted in (C) below, the establishment shall subject sausages in casings not exceeding 105 mm in diameter, at the time of stuffing, to all of the following minimum chamber temperatures and time periods.

TREATMENT SCHEDULE FOR SAUSAGES 105 MILLIMETERS (4 1/16 INCHES) OR LESS IN DIAMETER

Minimum chamber temperature		Minimum time (hours)
(°F)	(°C)	
50	10	12
90	32.2	1
100	37.8	1
110	43.3	1
120	48.9	1
125	51.7	7

Following the preceding treatment, the establishment shall dry the sausages at a temperature not lower than 50 °F (10 °C) for not less than 7 days.

(C) *Heating and Drying Treatment, Small Sausages.* Alternatively, the establishment may subject sausages in casings not exceeding 55 mm in diameter, at the time of stuffing, to all of the following minimum chamber temperatures and time periods.

TREATMENT SCHEDULE FOR SAUSAGES 55 MILLIMETERS (2 1/8 INCHES) OR LESS IN DIAMETER

Minimum chamber temperature		Minimum time (hours)
(°F)	(°C)	
50	10	12
100	37.8	1
125	51.7	6

Following the preceding heat treatment, the establishment shall dry the sausages at a temperature not lower than 50 °F (10 °C) for not less than 4 days.

* * * * *

(c) * * *

(3) * * *

(iv) *Hams and pork shoulder picnics.* In the curing of hams and pork shoulder picnics, one of the methods below shall be used. For calculating days per pound, the establishment shall use the weight of the heaviest ham or picnic in the lot.

Method No. 1. The hams and pork shoulder picnics shall be cured by a dry-salt curing process not less than 40 days at a temperature no lower than 36 °F. The products shall be laid down in salt, not less than 4 pounds to each hundredweight of product, the salt being applied in a thorough manner to the lean meat of each item. When placed in cure, the products may be pumped with pickle if desired. At least once during the curing process, the products shall be overhauled (turned over for the application of additional cure) and additional salt applied, if necessary, so that the lean meat of each item is thoroughly covered. After removal from cure, the products may be soaked in water at a temperature not higher than 70 °F for not more than 15 hours, during which time the water may be changed once, but they shall not be subjected to any other treatment designed to remove salt from the meat except that superficial washing may be allowed. The products shall finally be dried or smoked at a

time and temperature not less than a combination prescribed in Table 5 of Method No. 3.

Method No. 2. [Reserved]

Method No. 3. (A) *Curing.* (Other than bag curing): Establishments shall cure hams and shoulders by using a cure mixture containing not less than 70 percent salt by weight to cover all exposed muscle tissue and to pack the hock region. Total curing time consists of a mandatory cure contact time and an optional equalization time.

(B) *Cure Contact Time.* This is the cure contact period, during which the establishment shall keep exposed muscle tissue coated with the cure mixture at least 28 days but for no less than 1.5 days per pound of ham or shoulder. Overhaul is optional so long as the exposed muscle tissue remains coated with curing mixture.

(C) *Equalization.* The establishment may provide an equalization period after the minimum cure contact period in (B) above to permit the absorbed salt to permeate the product's inner tissues. Equalization is the time after the excess cure has been removed from the product at the end of the cure contact period until the product is placed in the drying room and the drying period begins. The total curing time (equalization plus cure contact) shall be at least 40 days and in no case less than 2 days per pound of an uncured ham or shoulder.

(D) *Removing Excess Cure.* After the required cure contact period, the establishment may remove excess cure mixture from the product's surface mechanically or by rinsing up to 1 minute with water, but not by soaking.

(E) *Bag Curing.* Bag curing is a traditional ham curing technique in which the manufacturer wraps the ham and all of the cure mixture together in kraft paper then hangs them individually. The paper keeps the extra cure mixture in close contact with the product making reapplication of salt unnecessary, and it protects the product from mites and insects. Establishments may employ the bag curing method as an alternative to (A) through (D) above. An establishment which elects to use the bag curing method shall apply a cure mixture containing at least 6 pounds of salt per 100 pounds of uncured product. The establishment shall rub the curing mixture into the exposed muscle tissue, pack the hock region with the curing mixture, and use uncoated wrapping paper to wrap the product together with any remaining curing mixture. The bag cured product shall remain wrapped throughout the curing period and may or may not remain wrapped during the drying period. In any case, the curing period shall be at least 40 days but not less than 2 days per pound of an uncured ham or shoulder. After curing, the cured product shall be exposed to a drying time and temperature prescribed in Table 5.

(F) *Curing Temperature.* During the curing period the establishment shall use one of the following procedures:

(1) The establishment shall control the room temperature at not less than 35 °F (1.7 °C) nor greater than 45 °F (7.2 °C) for the first 1.5 days per pound of an uncured ham or shoulder, and not less than 35 °F (1.7 °C) nor greater than 60 °F (15.6 °C) for the remainder of the curing period.

(2) The establishment shall monitor and record daily product temperature. The room temperature need not be controlled but days on which the product temperature drops below 35 °F (1.7 °C) shall not be counted as curing time. If the product temperature exceeds 45 °F (7.2 °C) within the first period of 1.5 days per pound of an uncured ham or shoulder or if it exceeds 69 °F (15.6 °C) for the remainder of the curing period, the establishment shall cool the product back to the 45 °F (7.2 °C) maximum during the first period or 55 °F (12.8 °C) maximum during the remainder of the period.

(3) The establishment shall begin curing product only between the dates of December 1 and February 13. The room temperature need not be controlled, but the establishment shall monitor and record daily room temperatures, and days in which the room temperature drops below 35 °F (1.7 °C) shall not be counted as curing time.

(G) *Drying.* After the curing period, establishments shall use one of three procedures for drying:

(1) The establishment shall subject the product to a controlled room temperature for a minimum time and minimum temperature combination prescribed in Table 5 or for a set of such combinations in which the total of the fractional periods (in column 4 of Table 5) exceeds 1.5.

(2) Establishments using uncontrolled room temperatures shall monitor and record the internal product temperature. The drying period shall be complete when, from the days which can be counted as curing time, one of the time/temperature combinations of Table 5 is satisfied or when the total of the fractional values for the combinations exceeds 1.5.

(3) Establishments using uncontrolled room temperatures shall dry the product for a minimum of 160 days including the entire months of June, July, and August. This procedure is obviously dependent on local climatic conditions and no problem exists with respect to current producers who use this procedure. Future applicants shall demonstrate that their local monthly average temperatures and the local monthly minimum temperatures are equal to or warmer than the normal average temperatures and normal minimum temperatures compiled by the National Oceanic and Atmospheric Administration for Boone, North Carolina, station 31–0977, 1951 through 1980.

MONTHLY TEMPERATURES (°F) FOR BOONE NC, 1951–1980

Jan.	Feb.	Mar.	Apr.	May	June	July	Aug.	Sep.
Normal average temperatures								
32.2	34.1	41.3	51.2	59.1	65.1	68.3	67.5	61.6
Normal minimum temperatures								
22.8	24.2	30.8	39.6	48.1	54.7	58.5	57.6	51.6

Drying Times and Temperatures for Trichina Inactivation in Hams and Shoulders

TABLE 5.—MINIMUM DRYING DAYS AT A MINIMUM TEMPERATURE*

Minimum Drying Temperature		Minimum days at drying temperature	Fractional period for one day of drying
Degrees fahrenheit	Degrees centigrade		
130	54.4	1.5	.67
125	51.7	2	.50
120	48.9	3	.33
115	46.1	4	.25
110	43.3	5	.20

TABLE 5.—MINIMUM DRYING DAYS AT A MINIMUM TEMPERATURE*—Continued

Minimum Drying Temperature		Minimum days at drying temperature	Fractional period for one day of drying
Degrees fahrenheit	Degrees centigrade		
105	40.6	6	.17
100	37.8	7	.14
95	35.0	9	.11
90	32.2	11	.091
85	29.4	18	.056
80	26.7	25	.040
75	23.9	35	.029

* Interpolation of these times or temperatures is not acceptable; establishments wishing to use temperatures or times not in this Table shall first validate their efficacy as provided by 318.10(c)(4) of this section.

Method No. 4.

(A) Cure: Establishments shall cure hams and shoulders by using a cure mixture containing not less than 71.5 percent salt by weight to cover all exposed muscle tissue and to pack the hock region. Establishments may substitute potassium chloride (KCl) for up to half of the required salt on an equal weight basis.

(B) *Curing.* Establishments shall apply the cure at a rate not less than 5.72 pounds of salt and KCl per hundred pounds of fresh meat. The cure shall be applied in either three or four approximately equal amounts (two or three overhauls) at separate times during the first 14 days of curing.

(C) *Cure Contact Time.* Establishments shall keep the product in contact with the cure mixture for no less than 2 days per pound of an uncured ham or shoulder but for at least 30 days. Establishments shall maintain the curing temperature at no less than 35°F (1.7°C) during the cure contact time.

(D) *Equalization.* After the cure contact period, establishments shall provide an added equalization period of no less than 1 day per pound of an uncured ham or shoulder but at least 14 days. Equalization is the time after the excess cure has been removed from the product, the end of the cure contact period, and before the drying period begins. Establishments may substitute additional cure contact days for an equal number of equalization days.

(E) *Removing Excess Cure.* After the required cure contact period, the establishment may remove excess cure mixture from the product's surface mechanically or by rinsing up to 1 minute with water, but not by soaking.

(F) *Drying.* After the curing period, establishments shall use one of the controlled temperature methods for drying listed in Method No. 3 of this subparagraph.

Method No. 5

(A) *Curing.* The establishment shall cure the ham to a minimum brine concentration of 6 percent by the end of the drying period. Brine concentration is calculated as 100 times the salt concentration divided by the sum of the salt and water concentrations.

Percent brine=100×[salt]/([salt]+[water])

The Agency will accept the brine concentration in the biceps femoris as a reasonable estimate of the minimum brine concentration in the ham.

(B) *Drying and Total Process Times.* The establishment shall dry the cured ham at a minimum temperature of 55 °F (13 °C) for at least 150 days. The total time of drying plus curing shall be at least 206 days.

(C) *Ensuring an Acceptable Internal Brine Concentration.* (1) To establish compliance, the establishment shall take product samples from the first 12 lots of production as follows: From each lot,

(i) One sample shall be taken for each 5 or more hams;

(ii) Each sample shall be taken from the biceps femoris. As an alternative to the use of the biceps femoris, the Agency shall consider other method(s) of sampling the dry-cured hams to determine the minimum internal brine concentration, as long as the establishment proposes it and submits data and other information to establish its sufficiency to the Director of the Processed Products Inspection Division;

(iii) Each sample shall weigh no less than 100 grams;

(iv) The samples shall be combined as one composite sample and sealed in a water vapor proof container;

(v) The composite sample shall be submitted to a laboratory accredited under the provisions of § 318.21 to be analyzed for salt and water content using methods from the "Official Methods of Analysis of the Association of Official Analytical Chemists (AOAC)," 15th Edition, 1990, Section 983.18 (page 931) and Section 971.19 (page 933) which are incorporated by reference. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from the Association of Official Analytical Chemists, suite 400–BW, 2200 Wilson Boulevard, Arlington, VA 22201–3301. Copies may be inspected at the Office of the FSIS Hearing Clerk, room 3171, South Agriculture Building, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250 or at the Office of the Federal Register, 1100 L Street, NW., room 8401, Washington, DC. If the time between sampling and submittal of the composite sample to the accredited laboratory will exceed 8 hours, then the establishment shall freeze the composite sample immediately after the samples are combined;

(vi) Once the laboratory results for the composite sample are received, the manufacturer shall calculate the internal brine concentration by multiplying the salt concentration by 100 and then dividing that figure by the sum of the salt and water concentrations;

(vii) Compliance is established when the samples from the first 12 lots of production have a minimum internal brine concentration of 6 percent. Lots being tested to establish compliance shall be held until the internal brine concentration has been determined and found to be at least 6 percent. If the minimum internal brine concentration is less than 6 percent, the lot being tested shall be held until the establishment brings the lot into compliance by further processing.

(2) To maintain compliance, the establishment shall take samples, have the samples analyzed, and perform the brine calculations as set forth above from one lot every 13 weeks. Lots being tested to maintain compliance shall not be held. If the minimum internal brine concentration is less than 6 percent in a lot being tested to maintain compliance, the establishment shall develop and propose steps acceptable to FSIS to ensure that the process is corrected.

(3) Accredited laboratory results and the brine calculations shall be placed on file at the establishment and available to Program employees for review.

Method No. 6

(A) *Curing.* The establishment shall cure the ham to a minimum brine concentration of 6 percent by the end of the drying period. Brine concentration is calculated as 100 times the salt concentration divided by the sum of the salt and water concentrations.

Percent brine = 100 × [salt] / ([salt] + [water])

The Agency will accept the brine concentration in the biceps femoris as a reasonable estimate of the minimum brine concentration.

(B) *Drying and Total Process Times.* The establishment shall dry the cured ham at a minimum temperature of 110 °F (41 °C) for at least 4 days. The total time of drying plus curing shall be at least 34 days.

(c) *Ensuring an Acceptable Internal Brine Concentration.*

(1) To establish compliance the establishment shall take product samples from the first 12 lots of production as follows: From each lot,

(i) One sample shall be taken from each of 5 or more hams;

(ii) Each sample shall be taken from the biceps femoris. As an alternative to the use of the biceps femoris, the Agency will consider

other methods of sampling the dry-cured hams to determine internal brine concentration, as long as the establishment proposes it and submits data and other information to establish its sufficiency to the Director of the Processed Products Inspection Division;

(iii) Each sample shall weigh no less than 100 grams;

(iv) The samples shall be combined as one composite sample and sealed in a water vapor proof container;

(v) The composite sample shall be submitted to a laboratory accredited under the provisions of § 318.21 to be analyzed for salt and water content using methods from the "Official Methods of Analysis of the Association of Official Analytical Chemists (AOAC)," 15th Edition, 1990, section 983.18 (page 931) and section 971.19 (page 933) which are incorporated by reference. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from the Association of Official Analytical Chemists, suite 400–BW, 2200 Wilson Boulevard, Arlington, VA 22201–3301. Copies may be inspected at the Office of the FSIS Hearing Clerk, room 3171, South Agriculture Building, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250 or at the Office of the Federal Register, 1100 L Street, NW., room 8401, Washington, DC. If the time between sampling and submittal of the composite sample to the accredited laboratory will exceed 8 hours, then the establishment shall freeze the composite sample immediately after the samples are combined;

(vi) Compliance is established when the samples from the first 12 lots of production have a minimum internal brine concentration of 6 percent. Lots being tested to establish compliance shall be held until the internal brine concentration has been determined and found to be at least 6 percent. If the minimum internal brine concentration is less than 6 percent, the lot being tested shall be held until the establishment brings the lot into compliance by further processing.

(2) To maintain compliance, the establishment shall take samples, have the samples analyzed, and perform the brine calculations as set forth above from one lot every 13 weeks. Lots being tested to maintain compliance shall not be held. If the minimum internal brine concentration is less than 6 percent in a lot being tested to maintain compliance, the establishment shall develop and propose steps acceptable to FSIS to ensure that the process is corrected.

(3) Accredited laboratory results and the brine calculations shall be placed on file in the establishment and available to Program employees for review.

* * * * *

PART 320—[AMENDED]

3. The authority for part 320 continues to read as follows:

Authority: 34 Stat. 1260, 79 Stat. 930, as amended, 81 Stat. 584, 84 Stat. 91, 438; 21 U.S.C. 71 *et seq.*, 601 *et seq.*

4. Paragraph (b)(7) is added to § 320.1 to read as follows:

§ 320.1 Records required to be kept.

* * * * *

(b) * * *

(7) Sample results and calculation results as required by processing procedures to destroy trichinae in § 318.10(c)(3)(iv) (Methods 5 and 6).

* * * * *

Done at Washington, DC on: May 8, 1992.

H. Russell Cross,

Administrator, Food Safety and Inspection Service.

[FR Doc. 92–12169 Filed 6–19–92; 8:45 am]

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federal register

Monday
June 22, 1992

Part IV

Environmental Protection Agency

40 CFR Parts 261, 266 and 271

Hazardous Waste Management System; Identification and Listing of Hazardous Waste; Exclusions; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 261, 266, and 271

[FRL-4098-4]

RIN 2050-AC85

Hazardous Waste Management System; Identification and Listing of Hazardous Waste; Exclusions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is amending the hazardous waste management regulations (40 CFR 261.4(a)) to exclude from the definition of solid waste those coke by-product residues that are recycled by being: (1) Returned to coke ovens as a feedstock to produce coke; (2) returned to the tar recovery process as a feedstock to produce coal tar; or (3) mixed with coal tar prior to coal tar refining or sale. These residues are hazardous because they exhibit the Toxicity Characteristic (TC) of 40 CFR 261.24. This exclusion was proposed on July 26, 1991 (56 FR 35758). The Agency is also excluding the similarly-situated hazardous waste K087 when recycled in this way. These exclusions are conditioned on there being no land disposal of the recycled material. EPA's July proposal also proposed to list as hazardous seven wastes from the production, recovery and refining of coke by-products. EPA will address these listings in a separate final rule to be issued at a later date.

EFFECTIVE DATE: June 22, 1992.

FOR FURTHER INFORMATION CONTACT: Mr. Ron Josephson, Environmental Engineer, U.S. Environmental Protection Agency, Office of Solid Waste (OS-333), 401 M St., SW, Washington, DC 20460, (202)260-4770; or call the RCRA/Superfund Hotline at: (800)424-9346 (toll-free in the U.S.), (800)553-7672 (TDD), or (703)920-9810.

SUPPLEMENTARY INFORMATION:

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I. Background

A. AISI Petition

On May 6, 1987, the Environmental Protection Agency (EPA) published a proposed rule which would expand controls on hazardous waste combustion in boilers and industrial furnaces (52 FR 16982). Because of the implications of this proposed rule on the recycling practices of the iron and steel industry, the American Iron and Steel Institute (AISI) petitioned EPA, requesting that EPA not classify product coke and coal tar that have been produced from decanter tank tar sludge (EPA Hazardous Waste No. K087), as solid wastes. AISI also requested that EPA exclude the mixture of K087 and coal or coal tar from the definition of solid waste when:

(1) K087 is recycled by being applied to coal prior to or just after charging the coal to a coke oven, or

(2) K087 is combined with coal tar prior to its being sold.

Coke produced from K087 is often used as a fuel and could be classified as a solid waste and a hazardous waste since it is a fuel produced from or otherwise containing hazardous waste K087 (RCRA 3004(q)(1)(a); 40 CFR 261.2(c)(2)). Coal tar, a by-product from coke production that has a high fuel value, is refined into other fuel products and also may contain K087 materials. These waste-derived materials had previously been exempt from substantive regulation under 40 CFR 261.6(a)(3)(vii). However, AISI requested that the coke and coal tar produced from coal containing decanter tank tar sludge (K087) be excluded from the definition of solid waste in § 261.4(a) since the addition of K087 sludge does not affect the concentration of hazardous constituents in the product coke or coal tar. AISI submitted data to EPA on metals and organic constituents in coke, coal tar, and decanter tank tar sludge. The data contained analyses for the following metals—arsenic, cadmium, chromium, lead, and mercury, and for the following organics—anthracene and phenanthrene, benzo(a)anthracene and chrysene, benzo(a)pyrene, fluoranthene, pyrene, naphthalene, and phenol.

After review of these data, EPA proposed the exclusion (52 FR 16982, May 6, 1987), and took final action on February 21, 1991 (56 FR 7203). (This action came about as part of a larger rulemaking establishing emissions standards for boilers and industrial furnaces burning hazardous waste.)

EPA determined that:

1. Basis for Approval of AISI Petition

(1) The recycling of tar decanter sludge by application to the coal charge does not appear to have a significant effect on the chemical composition of end product coke;

(2) The organic chemical composition of the tar decanter sludge does not appear to be significantly different from that of the coal tar; and

(3) The concentration of one metal (lead) in the sludge appears to be slightly higher than in the coal tar. However, the increase does not appear to be statistically significant due to the high variability of the concentration values.

Based on the above, and the fact that there is such a small quantity of sludge relative to the quantity of coke and coal tar produced by the coking process, EPA determined that decanter tank tar sludge recycling, as described here, does not significantly affect the concentration of toxic metals and organic constituents in coal tar or coke (*id.*)

Based on these findings, the Agency exercised its discretion to determine whether the coke and coal tar containing K087 materials should be considered "discarded," and hence solid wastes and concluded that they were not. Hence, EPA excluded the coke product (produced from coal and decanter tank tar sludge K087) and the coal tar mixed with the decanter tank tar sludge from the definition of solid waste. As the Agency stated, these two methods of recycling K087 are not part of the waste disposal problem, but rather can be viewed as part of an ongoing industrial recycling process; *American Mining Congress* v. *EPA*, 907 F. 2d 1179, 1186 (D.C. Cir. 1990).

2. Exclusion of Coking Process

EPA reasoned that it also followed that the coking process should be excluded from any regulation when K087 is used as an ingredient to produce coke. EPA stated that given that K087 is similar to other materials used to produce coke and comes from the same process as these other materials, it would be anomalous to assert RCRA control over the coke oven itself. This form of management is similar to raw materials management and again is "not part of the waste disposal problem." For this reason, EPA excluded coke ovens that process hazardous waste K087 from the applicability of the BIF rule (40 CFR 266.100). EPA also noted that coke ovens are subject to a special regulatory regime under amended section 112(i)(8) of the Clean Air Act, and that RCRA regulation could disrupt the Clean Air Act regulatory scheme. Thus, the Agency decided that RCRA regulation of coke ovens reprocessing K087 materials is not appropriate in any event (id.; see also 56 FR 43875, September 5, 1991).

B. Other Coke By-Product Plant Residues Returned to Coke Ovens

The exclusion from the definition of solid waste provided in the final BIF rule applied only to coke and coal tar produced from hazardous waste K087. This exclusion thus did not extend to coke or coal tar produced from wastes or by-product residues other than K087, nor does it exclude the residues themselves when they are reinserted into coke ovens or mixed with coal tar. These products and residues thus would have been subject to full RCRA regulation (if they exhibit a characteristic of hazardous waste) before reinsertion into the coke oven. These materials (i.e., coke by-product plant residues other than K087 that exhibit the Toxicity Characteristic) are the subject of today's final rule and are discussed further below.

This result appeared unwarranted to EPA because the subject by-products are not significantly different from the K087 materials already excluded. EPA thus proposed to exclude these materials from the definition of solid waste when they are recycled to the coke oven or mixed with coal tar. In that proposal, the Agency proposed several options as to where and how the exclusion could apply (56 FR 35777, July 26, 1991).

EPA also issued an Administrative Stay of the regulatory standards that would otherwise apply to coke ovens that receive residues exhibiting the toxicity characteristic from the coke by-products recovery process (56 FR 43874; September 5, 1991). The primary effect of the stay was to halt the application of RCRA air emission standards to coke ovens when they reprocess coke by-product residues and to give the Agency time to evaluate public comments on the exclusion from the definition of solid waste that was proposed for these residues on July 26, 1991 (56 FR 35787). As a result of the stay, coke oven operators were allowed to continue to recycle coke by-product residues back into their coke ovens without RCRA regulation of the ovens' air emissions pending EPA action on the proposed rule.

Today's final rule differs from the stay in that it does not just apply to the coke production process but instead excludes from the definition of solid waste coke by-product plant residues that exhibit the Toxicity Characteristic, when they are recycled by being returned to coke ovens or mixed with coal tar. By meeting the terms of the exclusion, many materials would not be subject to all portions of the RCRA regulations.

II. Basis for Today's Rule

As discussed in more detail below, the record for this rulemaking establishes clearly that coke by-product plant residues exhibiting the TC are not significantly different from K087 and that these TC by-product residues are recycled to the coke process in ways identical to K087. It is clear to the Agency, therefore, that the regulatory scheme for all materials, when recycled in this way, should be the same. It also appears to the Agency that safe handling of these materials before and during recycling can be assured without full scale subtitle C regulation.

As discussed in more detail below, EPA is thus promulgating an exclusion from the definition of solid waste for K087 and other coke by-product plant residues that are recycled by reinsertion to coke ovens along with coal to produce coke, or that are recycled by mixing with coal tar. The next section describes the coking and tar refining processes that generate these residues.

A. Description of Processes

1. The Coking Process

Coke is manufactured by anaerobic carbonization of coal in high temperature (900–1200°C) coke ovens. Coke is the main product and is used as a reductant in the blast furnaces used in iron manufacturing. Coal tar, light oil, ammonia liquor and coke-oven gas are also generated from the coke ovens. The coke oven gas (COG) is processed through recovery units to separate other saleable by-products from the gas stream and is then used as fuel. Coal tar is typically refined to produce commercial and industrial products including pitch, creosote oil, refined tar, naphthalene, and commercial materials such as bitumen. Figure 1 is a generic process flow diagram of the manufacture of coke and coke by-products. The diagram also indicates the sources of by-product residues that are the subject of this rule.

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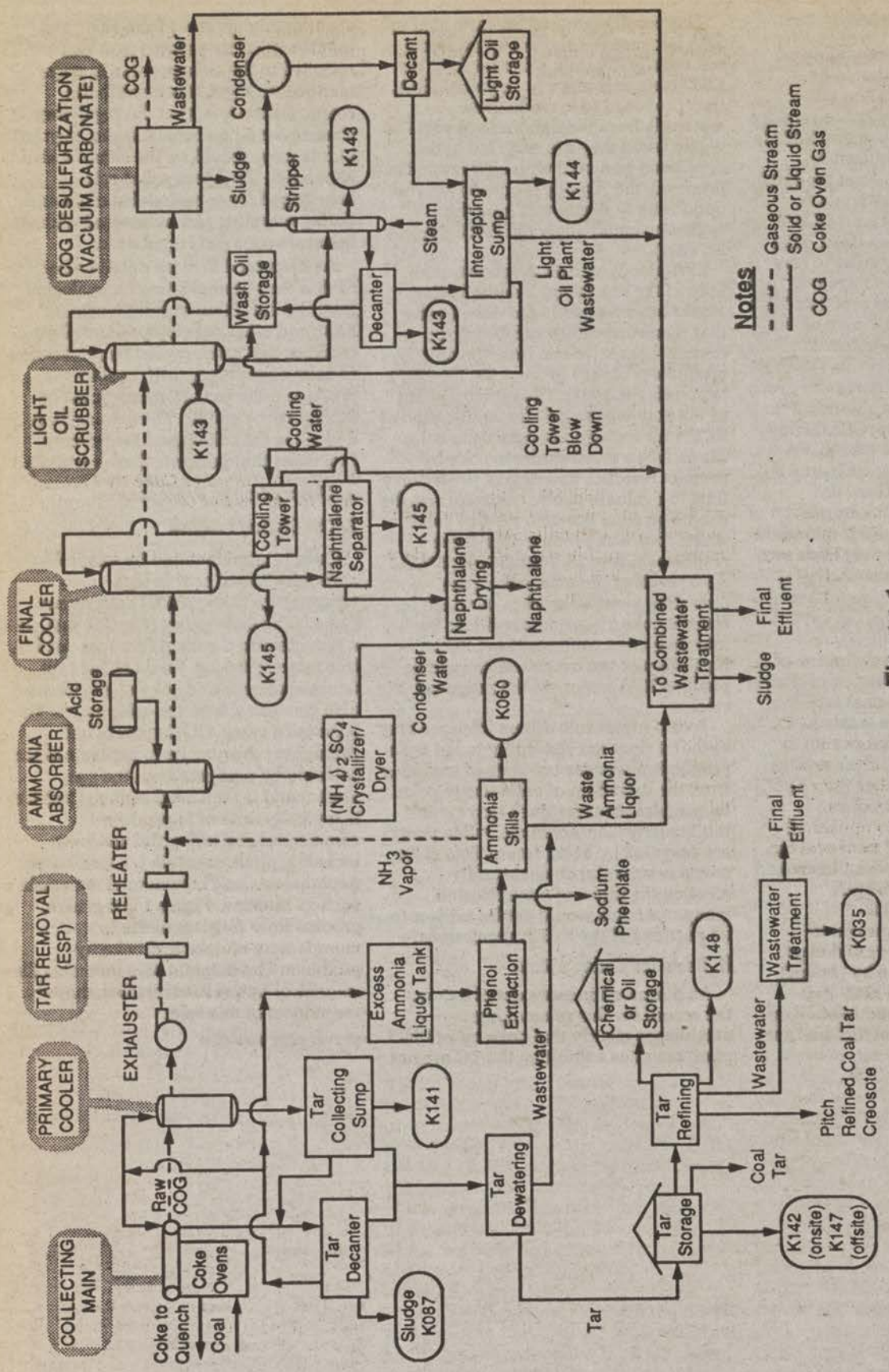

Figure 1
COKE BY-PRODUCTS RECOVERY

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2. The Tar Refining Process

Coal tar is refined by either batch or continuous distillation into a number of products, including pitch, creosote, naphthalene, and tar acids. The heavy liquid components such as pitch and creosote are sent to a distillation column for further refining. The pitch, which is generated at the softening point of tar, is discharged from the still, cooled, extruded, and poured into barrels or other containers for storage.

B. Description of By-Product Residues and Recycling Processes

Coke by-product residues are generated from separation steps used in the recovery of the by-products described above. At the beginning of the process, during the removal of coal tar, tar residue accumulates in the tar collection sump and at the bottom of tar storage tanks. The most frequent management practice for tar storage tank and tar collecting sump residues, based on information received from 1985 RCRA § 3007 questionnaires and supplemental data submitted in 1987, is recycling the residues to the coke oven. Other management practices for tar storage tank residues include burning the wastes in a boiler, disposing of them in a landfill, or soliciting contractor services for removal of the wastes. The Agency believes that the proportion of wastes being recycled to coke ovens is higher than indicated by the 1987 data due to the potential impact of Land Disposal Restrictions and improvements in recycling technology in this industry.

Naphthalene recovery residues are generated in the final cooling tower, naphthalene separator and collection sumps. These residues are currently managed by recycling them to the tar decanter, the coke oven, or the crude coal tar tank. The light oil recovery process generates wash and light oil residues in the scrubber tower, the stripping still and in a decanter or centrifuge used to separate a polymerized resin referred to as wash oil muck from the recycled wash oil. These wastes are managed in a variety of ways. Over half of the reporting facilities recycle these residues to the coke oven, the tar decanter, the tar sump, or dissolve the residues in the wash oil and recycle them to the light oil recovery process. Some facilities burn the wastes in boilers or use them as fuels, or employ contractors to remove the wastes.

Coke by-product residues that are reinserted into coke ovens or mixed with coal tar usually require prior processing in order to obtain a homogeneous material for recycling purposes. Thirteen of the 34 domestic coking facilities utilize one patented recycling technology, while other facilities use various homogenization techniques such as ball mills. Such techniques can be accomplished without land disposal of the recycled materials.

In the largest-use recycling process, steel hoppers with capacities of one to two cubic yards are used to collect by-product residues. The hoppers are transported using forklifts or trucks and may be placed in "heater huts" (metal sheds heated by steam pipes) prior to processing. The residues are then added, along with a homogenizing agent, to heated batch tanks where grinding and blending occur. The homogeneous liquid is then pumped to a building where it is blended with or sprayed on coal as it moves along a conveyor belt to the coke ovens.

These same homogenization and blending principles are used at facilities equipped with ball mills. At these facilities, the residues are transferred by truck or pipe to a homogenization tank or ball mill. Subsequent holding or mixing tanks may be used to incorporate additional coke by-product residues into the homogenized mixture. The mixture is then applied to the coal as it travels along a conveyor.

The coal tar refining plant may produce two process residuals. The first process waste is coal tar storage tank residuals which are generated at the bottom of the storage tanks prior to the refining process. This is the same process waste that is generated in the coal tar storage tanks at the coke plant. It is thus reasonable to classify this residue as a coke by-product plant residue for purposes of this rulemaking. Certain facilities agitate their tar storage tanks either by mechanical means or with an air agitator to prevent the formation of tank bottoms. However, compliance with the benzene NESHAP requires the replacement or retrofitting of these storage vessels at coking facilities. The tank clean-outs required for this action have generated large quantities of tank residues. Tar storage tank residues are generally mixed with coal and recycled to the coke oven. Facilities that do not produce coke may transport the residues to coking facilities or incinerate or land dispose these wastes. The second process waste from the refining plant is high boiling-point residue which accumulates on the fire tubes and at the bottom of the batch still and must be removed periodically. This waste is referred to as tar distillation residue. The distillation residues may be recycled to the distillation tank along with the crude coal tar or to the coke oven. Other waste management practices include land disposal and removal by contractors. Continuous distillation does not generate any process residues.

Incidentally, in normal by-product plant residue recycling practices, a small amount of by-product residue is used essentially as make up material by adding the residue to a larger volume of coal tar. This is the practice EPA is excluding in today's rule. Mixing wastes generated from the coke by-products processes with a small amount of coal tar is not a recycling process in this industry, and would not meet the terms of the exclusion as stated in this notice. Should this practice occur, the Agency would view it as using coal tar to dilute hazardous waste, not as a recycling practice.

C. Similarity of other Coke By-Product Plant Residues to K087

Coke by-product plant residues are similar in composition to tar decanter sludge (K087) because they are generated from the same process as K087 and are not subject to further processing steps that would alter the chemical composition of the products or by-products. As described above in the process discussion, the first units in the coke oven gas (COG) cleaning process, which directly follow the coke oven, are the primary cooler and the tar decanter. The tar decanter removes particulates containing coal fines from the coal tar and generates K087 sludge.

K087 waste generally contains from six to eleven percent water and from 89 to 94 percent coal tar compounds, which are primarily aromatic hydrocarbons such as those found in pitch, anthracene oil, and light, middle and heavy oils. The volatile organics found in highest concentrations in K087 waste include benzene, toluene and xylene. Semivolatile organics include acenaphthalene, anthracene, benz(a)anthracene, benzo(b and k) fluoranthene, benzo(a)pyrene, chrysene, fluorene, fluoranthene, indeno(1,2,3-cd)pyrene, naphthalene, phenanthrene and pyrene.

The remainder of the coking process consists of by-product purification and recovery operations. The by-products are generated from the coke oven along with the coal tar and originate from the same COG stream that carries the coal tar. The by-product residues that are recycled to the coke oven are primarily generated from distillation columns, separators, and scrubbers used in the recovery of by-products, or sumps and storage tanks used in the process. These by-product residues include process

residues other than K087 from the recovery of coal tar, coal tar storage tank and distillation residuals, sump, distillation and decanter residues from light oil recovery, and naphthalene collection and recovery residues.

To make a listing determination on wastes generated from the coking industry, the Agency evaluated waste composition data obtained from sampling and analysis of by-product waste streams at various coke plants. The organic constituents found in highest concentrations in the by-product waste include benzene, acenaphthalene, anthracene, benz(a)anthracene, benzo(b and k)fluoranthene, benzo(g,h,i)perylene, benzo(a)pyrene, chrysene, fluorene, fluoranthene, indeno(1,2,3-cd)pyrene, naphthalene, phenanthrene and pyrene. These by-product residues are often characteristically hazardous because they exhibit the Toxicity Characteristic for benzene.

The Agency believes that since the by-product residues are generated from the same process as the coke, coal tar, and K087 sludge, and contain the same constituents as other residual streams such as K087, the by-product residues will behave in a similar way, chemically, to K087 when recycled to coke ovens or mixed with coal tar. Furthermore, since the recycling of K087 has been shown not to have a significant effect on the chemical composition of the coke and coal tar products, EPA believes the recycling of by-product residues likewise would not have a significant effect on the chemical composition of these products.

III. Justification for Exclusion from the Definition of Solid Waste

EPA is today adopting final rules providing for an exclusion from the definition of solid waste for coke by-product plant residues that exhibit the TC when these by-products are recycled by being returned to coke ovens either directly or by being mixed with coal tar prior to its refining or sale as a product. This exclusion includes residues from the coal tar refining process, as well as residues otherwise classified as K087 (provided, of course, that these residues are recycled as described above). The exclusions apply subsequent to the point of generation of the residues, and also apply to residues whether or not generated at the site of the coke oven or a tar refiner. Importantly, the exclusion is conditioned on there being no land disposal of the residues at any point from residue generation to reinsertion to the coke oven or tar recovery or refining process. Materials that are stored in piles on the land are thus considered to be solid wastes and are not excluded from regulation. Similarly, materials used in a manner constituting disposal or materials that are incinerated are fully regulated under RCRA subtitle C and all units managing these wastes must meet applicable RCRA regulations. Conditioned in this way, as explained below, the Agency believes the exclusion is a reasonable exercise of its discretion to determine whether materials the by-products residues are "discarded", in the sense of being part of the waste management problem. *American Mining Congress* v. *EPA*, 907 F. 2d at 1186–87 (D.C. Cir. 1990).

The Agency notes further that these materials would become solid and hazardous wastes if they are accumulated speculatively. See 40 CFR 261.2(c)(4) and 261.1(c)(8). This constraint guards against prolonged accumulation without recycling of the residues, a situation that has led to repeated severe damage incidents in other recycling industries. See generally 50 FR 658–61 (January 4, 1985).

A. Exclusion for Residues Generated and Recycled at Coke Oven Site

The exclusion for coke by-product residues rests on the following factors. First, recycling of this material causes no statistically discernible increase in concentration of toxic constituents in the coke ultimately produced, or in the feed to coke ovens (when the by-product residues are added to coke oven feedstock). Second, because the by-product residues are generated from the coking process and are inserted on-site back into that process, the activity itself can be viewed as one continuing process rather than a waste management activity. *American Mining Congress*, 907 F. 2d at 1186. Third, by conditioning the exclusion of no land disposal occurring, the traditional RCRA objectives of absence of land placement of material and general safe handling will be assured. Thus, any of these materials that are placed in land disposal units such as piles are solid and hazardous wastes, and the units are regulated units. (In addition, of course, an abandoned spill of these materials (viz. a spill not picked up expeditiously and used beneficially) constitutes disposal of a hazardous waste. See 45 FR at 76627 (Nov. 19, 1980); 48 FR at 2509–10 (Jan. 19, 1983); 50 FR at 28712–713 (July 15, 1985); and 55 FR at 22671 (June 1, 1990).)

The Agency has also examined the question of air emissions from these various operations in determining whether to exclude the residues. With respect to air emissions from the coke oven itself, not only will net emissions be unchanged by the recycling of these residues (since they are so chemically similar to a feedstock used in any case) but coke ovens are subject to a detailed regulatory scheme under amended sections 112(d)(8) and (i)(8) of the Clean Air Act. These provisions represent a carefully crafted Congressional compromise as to the appropriate level of regulation of air emissions from these units, which compromise would be upended by imposition of RCRA regulation. (For example, the Clean Air Act allows coke ovens to elect a later compliance date with the standards based on residual risk in exchange for meeting increasingly strict technology-based standards [CAA section 112(i)(8)]. These provisions would be undermined if RCRA risk-based standards were now applied. RCRA air emissions standards would appropriately apply, however, if coke ovens were to process hazardous wastes, such as spent solvents, generated from sources other than normal coking and coke by-product operations. The Agency's point here is that where the coke oven is just reprocessing materials from coking and related operations, the Clean Air Act regulatory scheme should operate.) This result would be particularly untoward given the lack of effect of the recycling practice on the air emissions themselves. See RCRA section 1006(b) (integration of RCRA regulations with other regulatory programs administered by EPA).

With respect to air emissions from operations preceding the coke ovens, the Agency also believes that regulatory standards imposed under the Clean Air Act already provide adequate controls. The operations are addressed by the emission standards for benzene waste operations (part of the so-called benzene NESHAP) contained in 40 CFR part 61 subpart FF (subpart FF applies to waste management units (as defined in the subpart instead of RCRA) (§ 61.340(a) and (b)).) The subpart includes standards for tanks, containers, and treatment units. (The Agency has recently agreed to stay the effectiveness of these provisions until clarifying amendments are promulgated. However, the Agency has committed to promulgate the amendments by December 1, 1992.) Given this level of regulatory control, the Agency does not regard these operations as part of the waste management problem.

All of these reasons also apply to the parallel recycling of K087 decanter tank tar sludge, an identical recycling practice involving a practically identical material. The exclusion adopted today thus also applies to K087 subsequent to

its generation, provided that it is recycled in the manner described above and that there is no land disposal of the material during the recycling process.

B. Exclusion of Coke By-products Generated Off-site

With respect to by-product residues generated off-site, many of the same considerations apply. EPA believes that proper tracking of the material can be assured both due to commercial reality of the close relationship of tar refiners to coke oven plants, and, for regulatory purposes, due to the requirement in § 268.7(a)(6) that a notice be kept in facility records documenting that the residues are generated, why they are excluded, and what their disposition is. See also 56 FR 41174 (Aug. 19, 1991). Also, the Agency believes that conditioning the exclusion on there being no land disposal of the residues will prevent the types of land pollution that are the subtitle C program's traditional focus.

With respect to air emissions, although the benzene NESHAP does not apply to off-site operations not classified as coke by-product recovery, the Agency does not view this as warranting classification of the materials as a solid waste when located at such plants (i.e. prior to shipment to a coke oven site). Commenters pointed out that classification of the residues as RCRA hazardous wastes could impede recycling by necessitating use of manifests, further recordkeeping, and possible psychological reluctance to handle the material. Certainly, a waste classification would add a level of regulatory complication, which would likely decrease recycling of this material. Because the environmental benefits of imposing a waste classification appear marginal (as set out above) and because of the reasonable possibility that the classification would impose some burdens on a recycling practice that would result in less of the residues being recycled, the Agency is exercising its discretion so that residues generated off-site are not considered to be discarded, and hence are not solid wastes. This exclusion is conditioned on the residues being recycled in the manner explained above, and conditioned further on there being no land disposal of the residues.

A final point is the explanation of how the exclusion is worded in the regulation. The current exclusion in § 261.4(a)(10), adopted in the February 21, 1991 regulations excludes the coke fuels produced from the recycling practice. Today's regulation omits reference to the products (i.e., coke and coal tar) made from the recycling of hazardous wastes. This is because the exclusion rule excludes the coke by-product residues when recycled, subsequent to the point of generation. Thus, an exclusion for the products made by this recycling process is redundant.

C. Exclusion of Coke By-product Residues Generated at Tar Refining Sites

1. Exclusion of Tar Refining Residues Recycled On-site

Today's regulation also applies to residues generated by tar refiners, as well as to residues generated at coke ovens. As mentioned above, some residues (from fire tubes, tanks, etc.) are recycled at the tar refiner site. The residues are reinserted into the crude coal tar storage tank or into the pitch fraction before it is separated. Products made from the distillation processes include creosote, chemical oils, and pitch. These products of course are not subject to RCRA regulation.

EPA is also excluding these residues from being solid wastes before products are produced. The reasons are similar to these for coke by-product residues. Thus, facilities may recycle tar refining residues to various parts of the tar refining process as long as the recycling process, or any pre-handling, does not involve land disposal. If the residues are accumulated speculatively, spilled without immediate cleanup, they would be solid wastes. In addition, the exclusion applies only to residues from the coke by-products industry used in the tar refining process. Adding non-coke by-product hazardous waste not only has none of the attributes of a closed process (the situation raising jurisdictional limits on RCRA authority), but could have adverse environmental effects by using refined tar to mask unrelated hazardous waste.

2. Exclusion of Tar Refining Residues Recycled Off-site

Several residues from the tar refining portion of the industry are recycled off-site, often by being sent to a coking facility. The residues have constituents similar to K087 and are similarly amenable to recycling to the coke oven. For the reasons stated above, the recycling exclusion published today applies to tar refining materials recycled off-site but within the coke by-products industry.

Again, recycling of these residues must involve no land disposal. Should these materials be land disposed, speculatively accumulated, spilled (at a facility or during transport) and not expeditiously picked up and used, or mixed with hazardous wastes from outside the coke by-products industry, the exclusion will not apply to the materials, and they will be considered solid wastes from the point of generation. By providing an exclusion based on this no land disposal scenario, the Agency believes that the value of the materials can be recovered by the industry in an environmentally responsible manner.

D. Response to Comments

EPA received comments from several industry groups concerning the proposed recycling exclusion. All the commenters supported the general concept of the exclusion from the definition of solid waste for coke by-product residues that are recycled by being returned to coke ovens as a feedstock to produce coke. There was disagreement over the point at which the exclusion should take effect (i.e., at the point of generation of coke by-product residues or at the point of reinsertion of the residues into coke ovens). Many commenters supported an exclusion at the point of generation of the residues. As proposed, the exclusion would have begun at the point of reinsertion of residues into coke ovens. The industry commenters interpreted the proposed exclusion as requiring an RCRA permit for the management of residues prior to the point of reinsertion. They stated that processing of the residues is required before reinsertion to a coke oven or mixing with coal tar. Several commenters contended that an exclusion at the point of reinsertion would have adverse economic effects on the coke by-products industry and associated recyclers (due to the alleged necessity, trouble, and expense associated with obtaining RCRA permits) and would discourage, without any resulting environmental benefit, the recycling of residues that is currently occurring.

EPA believes that the exclusion promulgated today (*i.e.*, that, subject to certain conditions being fulfilled, the exclusion applies after the point of generation) meets these commenters' concerns. In addition, as explained above, the Agency believes further that the exclusion, as conditioned, adequately assures that these operations are conducted safely.

Two commenters expressed concern over the rescission, promulgated in the BIF rule, of the exclusion for coke and coal tar containing K087 at 40 CFR 261.6(a)(3)(vii). The Agency clarifies here that the exclusion for coke and coal tar containing K087 promulgated in the BIF rule at 40 CFR 261.4(a)(10) negates

the need for the exclusion at § 261.6(a)(3)(vii).

Likewise, as explained above, the exclusion promulgated today makes it unnecessary to mention coke and coal tar in the exclusion. In addition, two commenters addressed the issue of unwarranted application of the derived-from rule to by-products of the coking process. They pointed out that the exclusion promulgated in the BIF rule covers only products containing or produced from K087, and does not exclude the hazardous waste prior to that point. This is a concern because other secondary materials from the coking process are reinserted into coke ovens and a strict reading of the regulations would cause these materials to be "derived-from" hazardous waste K087. EPA does not consider marketable by-products of the coking process (*e.g.*, light oil, naphthalene) to be derived from K087 under these circumstances. As stated earlier, to avoid confusion on this issue, the Agency is rewording the exclusion to also exclude K087 beyond the point of generation, when it is recycled to coke ovens or mixed with coal tar subject to the provisions stated in the exclusion.

Another issue raised by commenters that requires some clarification is that of on-site versus off-site recycling. One commenter supported limiting the proposed exclusion for coke by-product residues to residues that are recycled on-site (*i.e.*, at the same site where they were generated). Another commenter suggested expanding the exclusion to encompass off-site recycling of residues. This commenter stated that "there is no controlling judicial precedent that provides a basis for EPA to limit exclusions from the definition of solid waste to on-site recycling situations." The commenter referenced the January 8, 1988 **Federal Register** (53 FR 524) discussion of this topic, wherein EPA noted that no automatic on-site/off-site distinction can be made in terms of assessing whether a particular recycling process qualifies as an on-going manufacturing activity. The commenter has misinterpreted this preamble discussion. EPA actually noted that the existence of on-site recycling is a relevant element in classifying a recycling process as part of an on-going manufacturing operation. However, the Agency believes that the mere fact that recycling takes place on-site does not necessarily mean that the activity is part of an on-going manufacturing process. EPA also stated that "on-site or single generator recycling activities can continue to be characterized by elements of discard and so remain within the Agency's Subtitle C jurisdiction." In other words, EPA does not believe that on-site recycling automatically qualifies a recycling process as part of an on-going manufacturing operation and, therefore, beyond RCRA regulation. EPA makes no reference in the January 8, 1988 preamble to the inclusion of off-site recycling activities in what EPA considers an on-going manufacturing process.

The Agency received several other comments not directly relevant to the generation or recycling of TC hazardous wastes at coke by-products facilities. In many cases, the commenters were concerned with similar materials or past generation and disposal practices. The Agency will respond to such comments in the final listing rule, scheduled for mid-1992.

IV. Relationship to Other Regulatory Programs

A. Toxicity Characteristic

Many of the coke by-product plant residues that are returned to coke ovens with coal exhibit the Toxicity Characteristic for benzene, and are therefore hazardous wastes. Recycling these characteristic hazardous wastes in this way renders the coke oven subject to regulation under the BIF rule. When the resultant waste-derived coke is burned as a fuel, the burning unit is likewise subject to regulation. The exclusion promulgated today, when all its conditions are met, frees these materials and units from regulation under RCRA.

B. Burning of Hazardous Waste in Boilers and Industrial Furnaces

Members of the coke by-products industry have requested that coke by-product plant residues be excluded from the definition of solid waste when they are recycled to coke ovens or mixed with coal tar. Without this exclusion, coke ovens could be deemed to be burning hazardous waste when they reprocess the by-products, subjecting the coke ovens to the full range of RCRA regulations. This request was, in part, accomplished in the BIF rule by the promulgation of the exclusion to the definition of solid waste for recycled K087 (which accounts for most of the waste generation in this industry).

With the promulgation of the recycling exclusion for K087 in the BIF rule, generators became required to furnish, at a minimum, a one-time notification for restricted hazardous wastes subject to the exclusion, according to the provisions of 40 CFR 268.7(a)(6). In the preamble to the rule that clarified this requirement (56 FR 3866, January 31, 1991), the Agency stated what tracking requirements are still necessary for restricted hazardous wastes (such as K087) which meet exclusions to the definition of solid or hazardous waste subsequent to generation. At a minimum, a facility must provide a one-time notification in its operating record that indicates the generation of a restricted waste and its disposition. Such records typically should include the quantities of waste generated, the equipment used to perform the recycling, the location of the process, and a description of the process that shows that the waste meets the terms of an exclusion. Respondents to an enforcement action bear the burden of proof that the material qualifies for the exclusion by demonstrating that there is a known market or disposition for the material, and that it meets the terms of this exclusion (See 40 CFR 261.2(f).).

For wastes generated in the coke by-products industry, generators thus have already had to show that K087 waste is recycled (per the BIF rule exclusion). Should the disposition of the waste change for any reason, the facility must update the notification records accordingly to keep these records accurate. For example, if the materials are no longer recycled, additional Land Disposal Restrictions requirements may apply. For non-listed TC hazardous wastes (other than K087), the Agency will address their restrictions and treatment standards in a future rulemaking scheduled for promulgation later in 1992.

In summary, the recycling of TC characteristic residues does not appear to have a significant effect on the concentration of metals and organic constituents in the final coke and coal tar products. In addition, recycling of these residues will not affect emissions from the coke ovens and blast furnaces. The characteristic residues exhibit strong similarities to coal and coke, and are amenable to the same kind of processing; therefore, the Agency believes it is warranted in determining that these residues, when recycled by being returned to the coke oven or mixed with coal tar, are not discarded when these materials are not spilled or land disposed. As a result, EPA is excluding coke by-product plant residues that are recycled in this way from the definition of solid waste.

V. State Authority

A. Applicability of Rules in Authorized States

Under section 3006 of RCRA, EPA may authorize qualified states to administer and enforce the RCRA program within the state. (See 40 CFR part 271 for the standards and requirements for authorization.) Following authorization, EPA retains enforcement authority under sections 3008, 7003, and 3013 of RCRA, although authorized states have primary enforcement responsibility.

Prior to the Hazardous and Solid Waste Amendments of 1984 (HSWA), a state with final authorization administered its hazardous waste program entirely in lieu of EPA administering the Federal program in that state. The Federal requirements no longer applied in the authorized state, and EPA could not issue permits for any facilities in the state that the state was authorized to permit. When new, more stringent Federal requirements were promulgated or enacted, the state was obliged to enact equivalent authority within specified time frames. New Federal requirements did not take effect in an authorized state until the state adopted the requirements as state law.

In contrast, under section 3006(g) of RCRA, new requirements and prohibitions imposed by HSWA take effect immediately in all states, regardless of authorization status. EPA is directed to implement those requirements and prohibitions in an authorized state, including the issuance of permits, until the state is granted authorization to do so. While states must still adopt HSWA-related provisions as state law to retain final authorization, HSWA applies in authorized states in the interim.

B. Effect on State Authorization

Today's rule is promulgated pursuant to the authority of HSWA. This is because the rule is part of the determination of whether or not to list coke by-product wastes as hazardous pursuant to section 3001(e)(2) (an HSWA provision). In addition, this rule is part of the process of determining the proper scope of the Toxicity Characteristic, so it implements that HSWA provision (RCRA section 3001(h)) as well. Therefore, EPA will implement the provisions of the exclusion promulgated today in authorized states until they modify their programs to adopt this rule and the modification is approved by EPA. A State submitting a program modification may apply to receive either interim or final authorization under section 3006(g)(2) or 3006(b), respectively, for this provision on the basis of requirements that are substantially equivalent or equivalent to EPA's. The procedures and schedule for State program modifications are described in 40 CFR 271.21. It should be noted that all HSWA interim authorizations will expire January 1, 1993.

40 CFR 271.21(e)(2) requires that states having final authorization must modify their programs to include equivalent regulations within a year of promulgation of these regulations if only regulatory changes are necessary, or within two years if statutory changes are necessary. These deadlines can be extended in exceptional cases (40 CFR 271.21(e)(3)). Once EPA approves the modification, the state requirements become Subtitle C RCRA requirements.

Authorized states are only required to modify their programs when EPA promulgates Federal regulations that are more stringent or broader in scope than the authorized state's regulations. For those changes that are less stringent or reduce the scope of the Federal program, states are not required to modify their programs. This is a result of section 3009 of RCRA, which allows states to impose more stringent or broader regulations than the Federal program. The regulations promulgated today at § 261.4(a) are considered to reduce the scope of the Federal program because today's rule excludes certain materials and activities now within the RCRA purview. Therefore, authorized states are not required to modify their programs to adopt regulations consistent with and equivalent to this rulemaking.

Although states are not required to adopt today's rule, EPA strongly encourages states to do so as quickly as possible. As discussed above, on the effective date of the BIF rule, August 21, 1991, many coke oven operators would have been forced to stop recycling coke by-product plant residues back into their coke ovens, absent the Administrative Stay. The Agency want to minimize disruption to legitimate recycling practices currently taking place in the coking industry. The exclusion promulgated today will effectively do this, and authorized states are urged to adopt this provision expeditiously in an effort to promote recycling over waste disposal.

VI. Regulatory Requirements

A. Executive Order No. 12291

Under Executive Order No. 12291, EPA must judge whether a regulation is "major" and therefore subject to the requirements of a Regulatory Impact Analysis. This final rule is not major because it will not result in an effect on the economy of $100 million or more, and it will not increase costs or prices to industry. Rather, this regulation will reduce the overall costs and economic impact of EPA's hazardous waste management regulations by allowing a form of recycling to continue and eliminating possible permitting requirements for certain coke ovens. Because this amendment is not a major regulation, no Regulatory Impact Analysis has been conducted.

B. Paperwork Reduction Act

This rule does not contain any new information collection requirements subject to OMB review under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*

C. Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act (5 U.S.C. 601–612), whenever an Agency is required to publish a General Notice of Rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis (RFA) that describes the impact of the rule on small entities (i.e., small businesses, small organizations, and small governmental jurisdictions). No RFA is required, however, if the head of the Agency certifies that the rule will not have a significant impact on a substantial number of small entities.

Since EPA has determined the recycling exclusion published here does not affect wastes generated by small entities (as defined by the Regulatory Flexibility Act), and the Agency believes that small entities who handle them will not generate them in significant quantities, this regulation, therefore, does not require an RFA. Accordingly, I hereby certify that this regulation will not have a significant economic impact on a substantial number of small entities.

List of Subjects

40 CFR Part 261

Hazardous waste, Recycling.

40 CFR Part 266

Hazardous waste, Recycling.

40 CFR Part 271

Hazardous waste.

Dated: June 12, 1992.

F. Henry Habicht II,

Acting Administrator.

For the reasons set out in the preamble, title 40 of the Code of Federal Regulations is amended as follows:

PART 261—IDENTIFICATION AND LISTING OF HAZARDOUS WASTE

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

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

2. Section 261.4 is amended by revising paragraph (a)(10) to read as follow:

§ 261.4 Exclusions.

(a) * * *

(10) EPA Hazardous Waste No. K087, and any wastes from the coke by-products processes that are hazardous only because they exhibit the Toxicity Characteristic specified in Section 261.24 of this part, when, subsequent to generation, these materials are recycled to coke ovens, to the tar recovery process as a feedstock to produce coal tar or are mixed with coal tar prior to the tar's sale or refining. This exclusion is conditioned on there being no land disposal of the wastes from the point they are generated to the point they are recycled to coke ovens or the tar refining process.

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PART 266—STANDARDS FOR THE MANAGEMENT OF SPECIFIC HAZARDOUS WASTES AND SPECIFIC TYPES OF HAZARDOUS WASTE MANAGEMENT FACILITIES

3. The authority citation for part 266 continues to read as follows:

Authority: Sections 1006, 2002(a) 3004 and 3014 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended (42 U.S.C. 6905, 6912(a), 6924, and 6934).

§ 266.100 [Amended]

4. Section 266.100 is amended by removing the note to paragraph (a).

PART 271—REQUIREMENTS FOR AUTHORIZATION OF STATE HAZARDOUS WASTE PROGRAMS

5. The authority citation for part 271 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912(a), and 6926.

6. Section 271.1(j) is amended by adding the following entry to table 1 in chronological order by date of publication in the **Federal Register**:

§ 271.1 Purpose and scope.

* * * * *

(j) * * *

TABLE 1—REGULATIONS IMPLEMENTING THE HAZARDOUS AND SOLID WASTE AMENDMENTS OF 1984

Promulgation date	Title of regulation	Federal Register reference	Effective date
* * *	* * *	*	
June 22, 1992	Exclusion from the definition of solid waste for the recycling of hazardous wastes in the coke by-products industry.	(Insert FR page numbers).	June 22, 1992.

* * * * *

[FR Doc. 92-14462 Filed 6-19-92; 8:45 am]

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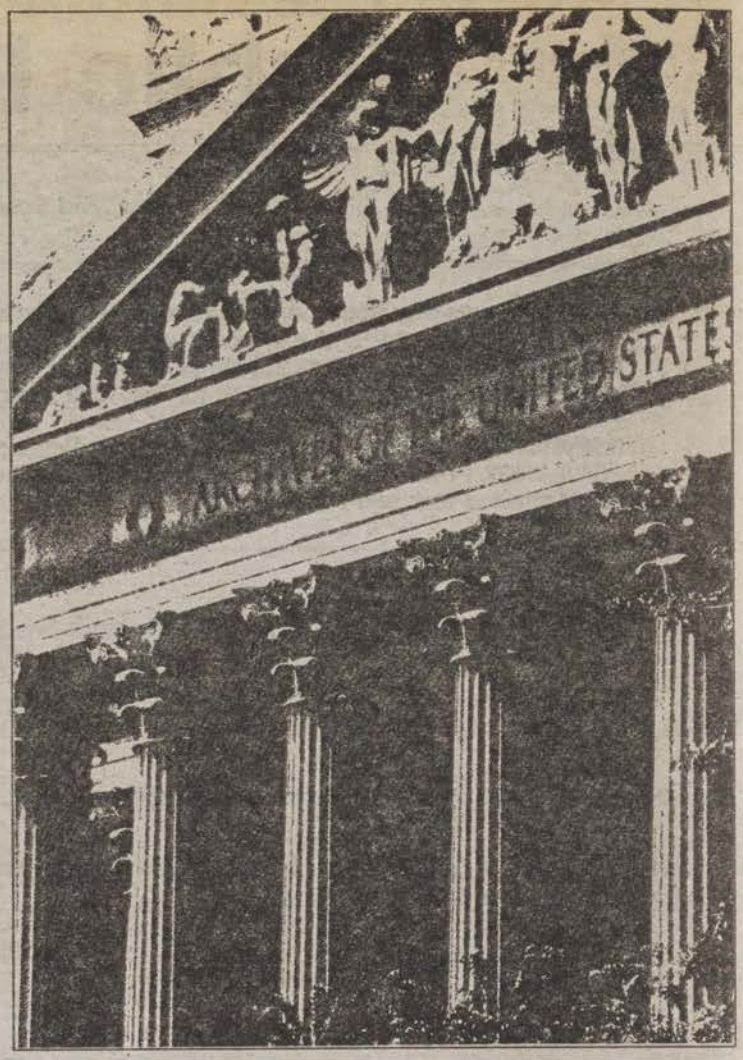

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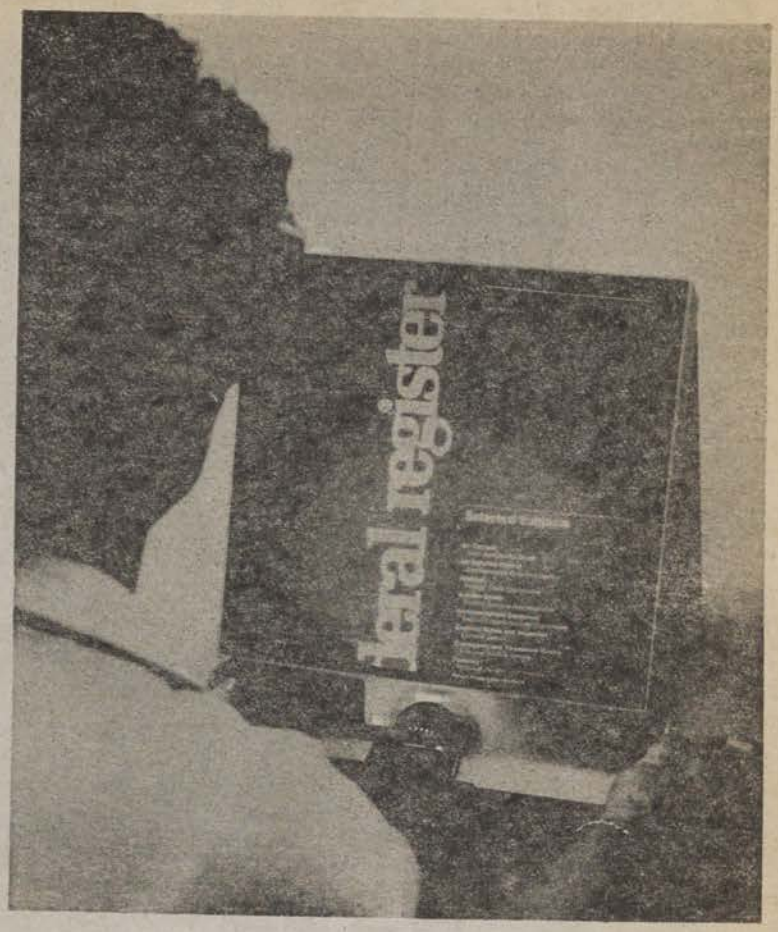

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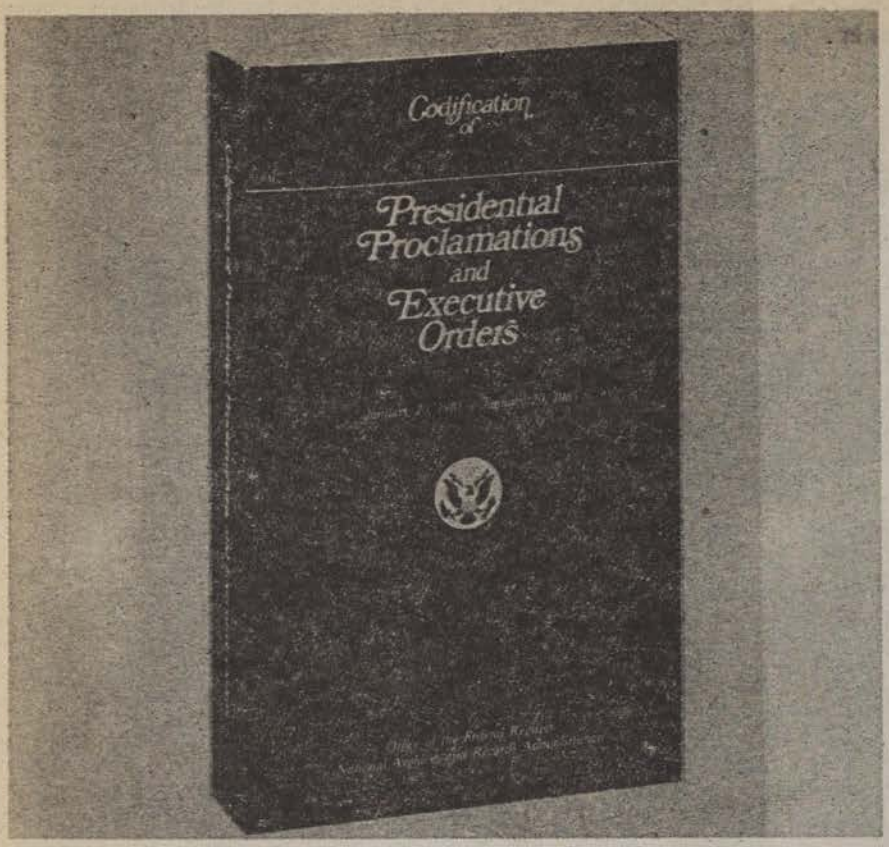

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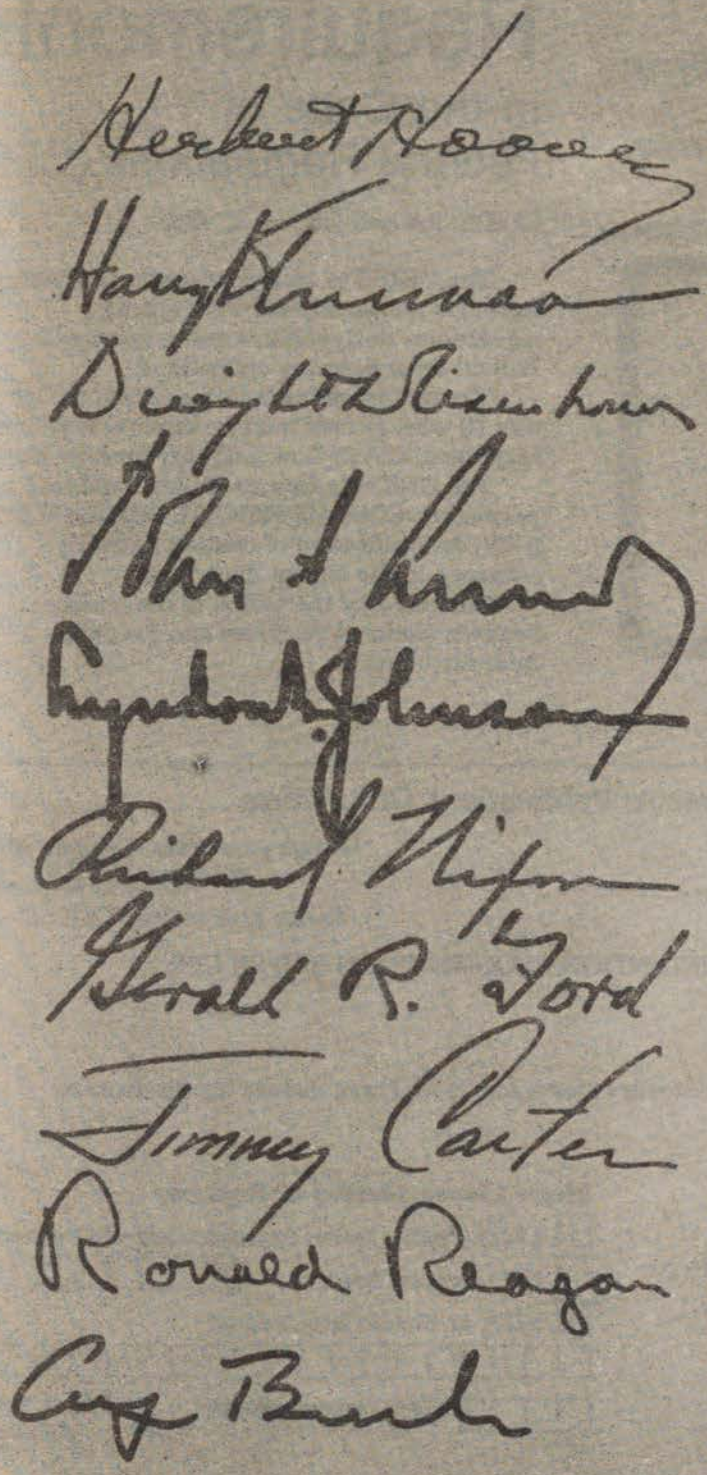

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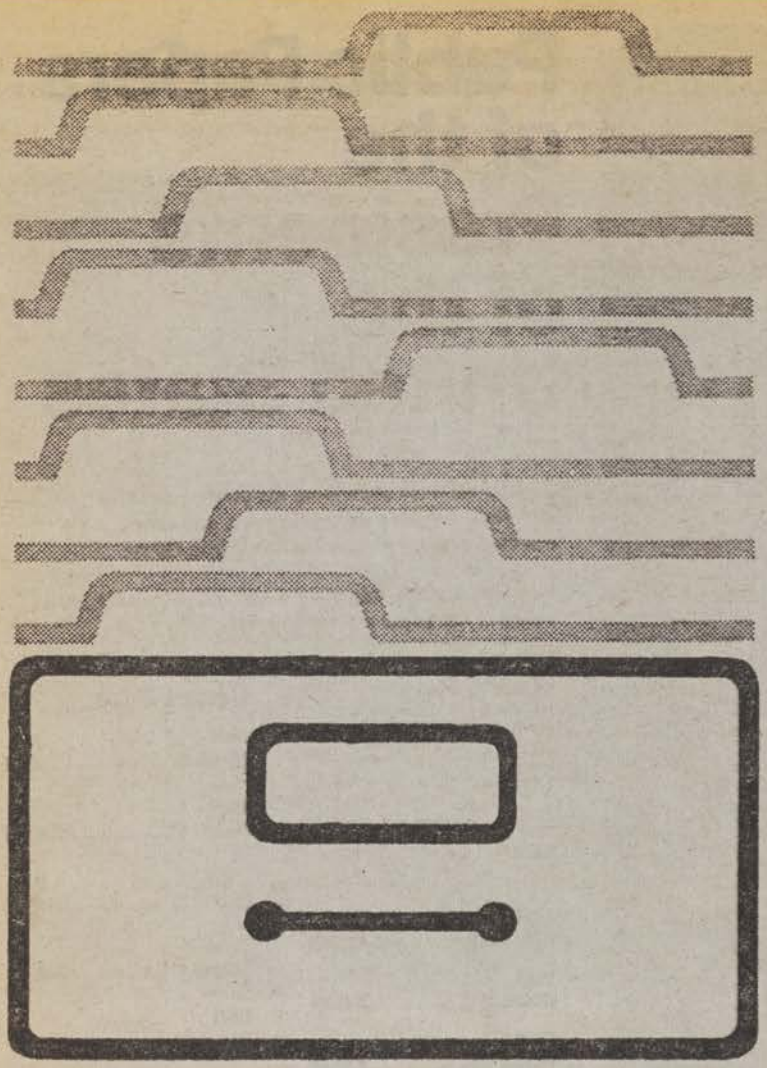

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