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Federal Register
Vol. 57, No. 149
Monday, August 3, 1992

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 998

[Docket No. FV-92-032IFR]

Marketing Agreement No. 146, Domestically Produced Peanuts; Outgoing Quality Regulations and Terms and Conditions of Indemnification for 1992 Crop Peanuts

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim final rule with request for comments.

SUMMARY: This interim final rule changes the outgoing quality regulations and the current terms and conditions of indemnification for 1992 crop peanuts regulated under Marketing Agreement No. 146. The outgoing regulations are changed: (1) To allow commingling of peanut lots of different grade categories at the request of the buyer after the lots have passed quality and aflatoxin inspection and have been positive lot identified; and (2) to increase options for handling peanut lots which fail to meet quality and aflatoxin requirements by allowing second handlers to move such lots to approved blanchers for blanching. The terms and conditions of indemnification are changed to make the payment system consistent with the current financial condition of the indemnification program. These actions will improve the movement of peanuts to market, increase the volume of peanuts placed in marketing channels, and facilitate the payment of indemnification claims to handlers.

DATES: This interim final rule is effective August 3, 1992. Comments received by September 2, 1992, will be considered prior to finalization of the rule.

ADDRESSES: Interested persons are invited to submit written comments concerning this rule. Comments must be sent in triplicate to the Docket Clerk, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2523–S, Washington, DC 20090–6456. Comments should reference the docket number and the date and page number of this issue of the **Federal Register**. Comments received will be available for public inspection in the Office of the Docket Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: Tom Tichenor, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2523–S, Washington, DC 20090–6456, telephone 202–720–6862.

SUPPLEMENTARY INFORMATION: This rule is issued pursuant to Marketing Agreement No. 146 [7 CFR part 998], regulating the quality of domestically produced peanuts, hereinafter referred to as the agreement. This agreement is effective under the Agricultural Marketing Agreement Act of 1937, as amended [7 U.S.C. 601–674] (the Act).

This rule has been reviewed by the Department of Agriculture (Department) in accordance with Departmental Regulation 1512–1 and the criteria contained in Executive Order 12291 and has been determined to be a "non-major" rule.

This rule has been reviewed under Executive Order 12778, Civil Justice Reform. This interim final rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule. This action is not intended to have retroactive effect. There are no administrative procedures which must be exhausted prior to any judicial challenge to the provisions of this rule.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened.

There are about 70 handlers of peanuts subject to regulation under the agreement, and there are about 47,000 peanut growers in the 16 States covered under the program. Small agricultural service firms are defined by the Small Business Administration [13 CFR 121.601] as those whose annual receipts are less than $3,500,000 and small agricultural producers have been defined as those having annual receipts of less than $500,000. Some of the handlers signatory to the agreement are small entities, and a majority of the growers may be classified as small entities.

There are three major peanut production areas in the United States covered under the agreement: (1) Virginia-Carolina, (2) Southeast, and (3) Southwest. The Virginia-Carolina area (Virginia and North Carolina) usually produces about 18 percent of the total U.S. crop. The Southeast area (primarily Georgia, Florida and Alabama) usually produces about two-thirds of the crop. The Southwest area (primarily Texas, Oklahoma, and New Mexico) produces about 15 percent of the crop. Based upon the most current information, U.S. peanut production in 1991 totalled 4.94 billion pounds, a 37 percent increase from 1990. The 1991 crop value is $1.4 billion, up 12 percent from 1990.

Aflatoxin was found in peanuts in the mid-1960's. Since that time, the domestic peanut industry has sought to minimize aflatoxin contamination in peanuts and peanut products. The objective of the agreement, in place since 1965, is to ensure that only wholesome peanuts enter edible market channels. About 90 percent of U.S. shellers (handlers) have voluntarily signed the agreement. They handle an estimated 95 percent of the crop.

Under the agreement, farmers' stock peanuts with visible *Aspergillus flavus* mold (the principal source of aflatoxin) are required to be diverted to non-edible uses. Each lot of shelled peanuts for edible use must be officially sampled and chemically tested for aflatoxin by the Department or in laboratories approved by the Peanut Administrative Committee (Committee). The Committee works with the Department in administering the marketing agreement program. The inspection and chemical analysis programs are administered by the Department. A sheller who has complied with these requirements is eligible for indemnification of losses incurred if the sheller's peanuts are deemed unsuitable for human consumption because of aflatoxin. Indemnification and administrative costs are paid by assessments levied on handlers signatory to the agreement.

The incoming quality regulation specifies the quality of farmers' stock peanuts which handlers may purchase from producers. Handlers are required to purchase only good qualify, wholesome peanuts for edible products. The outgoing quality regulation requires shellers to mill peanuts to meet certain quality specifications and to have them inspected before such peanuts can be sold to edible outlets. Foreign material and damaged and immature peanuts are removed in the milling operation. Each lot of milled peanuts must be sampled and the samples chemically analyzed for aflatoxin contamination. If the chemical assay shows that the lot is positive as to aflatoxin, the lot is not allowed to be shipped to edible channels. Lower quality peanuts are crushed for oil and meal. The end result is that only good quality peanuts end up in human consumption outlets.

On March 4 and 5, 1992, the Committee unanimously recommended changes in paragraphs (d) and (h)(3) of § 998.200 *Outgoing quality regulation.*

The first change will amend paragraph (d) to allow commingling of peanut lots of different grade categories at the request of the buyer or receiver, after the lots have passed quality and aflatoxin inspection and have been positive lot identified (PLI). Some buyers do not have commingling equipment at their facilities. This rule will allow handlers to satisfy the occasional request received from buyers that multiple lots be mixed prior to shipment to the buyer. Because each commingled lot will lose its original identity, the Committee recommended that the entire commingled load no longer be considered PLI and that the peanuts comprising the load no longer be eligible for indemnification or appeal inspection. Loss of the handler's right to indemnification claims and appeal inspections on such lots should not represent a significant concern to handlers as lots that pass quality inspection and aflatoxin testing are not eligible for indemnification and normally do not require an appeal inspection.

A transfer certificate will be issued by the inspection service on the commingled load certifying that, prior to commingling, the individual lots were PLI and met all program requirements.

This change is beneficial to the industry because it facilitates movement of peanuts and helps handlers meet their customers' needs. The change is affected by adding the following at the end of paragraph (d): "* * * except that lots which are commingled at the request of the receiver will require a transfer certificate to be issued designating that the lots were positive lot identified prior to commingling. All such commingled lots will no longer be considered positive lot identified, and, therefore, no longer eligible for indemnification or for appeal inspection."

The second change in this action increases second-handler options for disposing of PLI shelled peanut lots which fail to meet outgoing quality and aflatoxin requirements. Paragraph (h)(1) of § 998.200, Outgoing quality regulation, provides disposition requirements for second handlers of such peanuts, by referring the second handlers to disposition options specified in paragraph (h)(3). Paragraph (h)(3) provides five options for disposing of such failed lots (to domestic crushing, for export, to Committee-approved non-handler crushers, to other signer-handlers for crushing or fragmentation and exportation, and to domestic animal feed use). However, paragraph (h)(3) does not list blanching, which is one of the most commonly used methods of making peanuts which fail quality requirements suitable for human consumption. The Committee believes the option of blanching had simply not been addressed as an issue in the past and that there was never an intent to exclude blanching from disposition options available to second handlers.

This change is affected by adding a sentence in paragraph (h)(3) providing that handlers may also blanch, or cause to have balanced, failed lots pursuant to paragraph (h)(2) of § 998.200. Provisions of paragraph (h)(2) include that: (1) Movement of blanched peanuts be accompanied by a valid grade inspection certificate; (2) handlers report such movement to the Committee and maintain records of such movement; (3) prior to certification for human consumption, the lot of peanuts meets quality requirements listed in paragraph (a) of § 998.200 for unshelled peanuts, damaged kernels, minor defects, moisture, foreign material content; (4) the lot be certified negative as to aflatoxin; and (5) residuals from such blanching must either be bagged, tagged and further disposed of according to provisions in paragraph (g)(3), or be disposed of to domestic crushing or exported.

Both of these actions will facilitate the movement of peanuts to market and, thus, increase the volume of peanuts placed in marketing channels. The Committee carefully reviewed current regulations and believes there will be no adverse impact from these changes on the outgoing quality regulation. In fact, the commingling amendment should help some smaller handlers meet load specification for buyers who had previously only dealt with large handlers.

The Committee also recommended amending § 998.300, the terms and conditions of indemnification, to make the payment system consistent with the current financial condition of the indemnification program. Current paragraphs (z)(1) through (7) of § 998.300 specify claim procedures and payment schedules based on the number of indemnification claims received by the Committee.

Each year, assessments on peanuts handled are placed into a fund from which are paid indemnification claims and costs incurred by the Committee in disposing of contaminated lots. During seasons when the aflatoxin contamination is low or moderate, the fund is sufficient to meet Committee's disposition expenses and claims. During seasons when aflatoxin contamination is high (most recently, the 1990 crop), the disposition expenses and claims may exceed the collected indemnification funds and supplementary insurance policy. When this happens, disposition expenses are paid as invoices are received. After all disposition expenses have been paid, indemnification claims are paid, on an adjusted basis, from the remainder of the fund. Disposition expenses, which totalled just under $200,000 in 1991, include preparation, delivery, chemical assay, and supervision of the crushing of contaminated lots.

Because the 1991 crop had only moderate aflatoxin contamination, indemnification claims did not exceed the funds collected and a surplus was accrued. The Committee recommended that disposition expenses incurred during the 1992 crop year be paid from surplus 1991 indemnification funds. The surplus is more than sufficient to meet projected disposition expenses. If the 1992 crop is high in aflatoxin contamination, this action will make more funds available for 1992 indemnification claims and decrease the delay in making claim payments.

Paragraphs (z) and (z)(1) provide for the payment of disposition expenses from indemnification funds collected during the year of payment. Therefore, because the disposition expenses for the 1992 season can be paid with surplus 1991 indemnification funds, paragraph (z) is revised and (z)(1) is deleted.

The Committee also recommended removal of paragraph (z)(5) which requires that indemnification payments on the 1991 crop be delayed until complete repayment of the commercial loan which had been obtained to fund 1990 crop indemnification. That loan

was repaid earlier this year. Therefore, paragraph (z)(5) is no longer applicable to the regulation, and is deleted.

Redesignation and conforming changes are also made to the other paragraphs under paragraph (z) to incorporate the removal of paragraphs (z)(1) and (z)(5).

The changes in the terms and conditions of indemnification for 1992 crop peanuts in this interim final rule are intended to allow prompt payment of claims in the event of a crop year with a high incidence of aflatoxin contamination.

At its March 4 and 5, 1992, meeting, the Committee recommended that the indemnification cap for 1991 crop peanuts of $9,000,000, including $5,000,000 of insurance coverage, be maintained for the 1992 crop peanuts.

No changes were recommended in § 998.100 *Incoming quality regulation* for the 1992 crop. Therefore, the incoming quality regulation applicable to 1991 crop peanuts continues to be effective for 1992 crop peanuts. Changes are made to the section headings of § 998.100 *Incoming quality regulation*, 998.200 *Outgoing quality regulation* and § 998.300 *Terms and conditions of indemnification* to make those regulations applicable to the 1992 crop year.

Based on the above, the Administrator of the AMS has determined that this interim final rule will not have a significant economic impact on a substantial number of small entities. Written comments, timely received, in response to this action will be considered before finalization of this rule.

The information collection requirements that are contained in these regulations have been previously approved by the Office of Management and Budget (OMB) and have been assigned OMB No. 0581–0067.

After consideration of the Committee's recommendation and all relevant information presented, it is found that the changes in the outgoing quality regulation and terms and conditions of indemnification, as set forth in this interim final rule, will tend to effectuate the declared policy of the Act.

Pursuant to 5 U.S.C. 553, it is also found and determined, upon good cause, that it is impracticable, unnecessary and contrary to the public interest to give preliminary notice prior to putting this rule into effect, and that good cause exists for not postponing the effective date of this action until 30 days after publication in the **Federal Register** because: (1) This action relaxes requirements currently in effect for peanut handlers who are signatory to the Agreement; (2) this action should be in effect as soon as possible as the 1992 crop year begins July 1, 1992; and (3) this action provides a 30-day comment period, and any comments received will be considered prior to finalization of this rule.

List of Subjects in 7 CFR Part 998

Marketing agreements, Peanuts, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 998 is amended as follows:

PART 998—MARKETING AGREEMENT REGULATING THE QUALITY OF DOMESTICALLY PRODUCED PEANUTS

1. The authority citation for 7 CFR part 998 continues to read as follows:

Authority: Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

2. Section 998.100 is amended by revising the section heading to read as follows:

§ 998.100 Incoming quality regulation—1992 crop peanuts.

* * * * *

3. Section 998.200 is amended by revising the section heading, revising the current last sentence of paragraph (d), adding an additional sentence at the end of the paragraph (d), and adding a sentence after the first sentence of paragraph (h)(3), to read as follows:

§ 998.200 Outgoing quality regulation—1992 crop peanuts.

* * * * *

(d) * * * All lots of shelled or cleaned inshell peanuts shall be handled, stored, and shipped under positive lot identification procedures, except that lots which are commingled at the request of the receiver will require a transfer certificate to be issued designating that the lots were positive lot identified prior to commingling. All such commingled lots will no longer be considered positive lot identified and, therefore, no longer be eligible for indemnification or for appeal inspection.

* * * * *

(h) * * *

(3) Handlers may dispose of positive lot identified shelled peanuts (which originated from "Segregation 1 peanuts") which fail to meet the requirements of paragraph (a) of the Outgoing Quality Regulation (§ 998.200): To domestic crushing, to export to countries other than Canada and Mexico, provided they meet fragmented requirements, to crushers who are not handlers but are approved by the Committee, to other handlers for crushing or fragmenting and exportation, or to domestic animal feed or to other handlers for such disposition, pursuant to paragraph (m) of the Outgoing Quality Regulation (§ 998.200). Handlers may also blanch, or cause to have blanched, such lots pursuant to paragraph (h)(2) of this section. * * *

* * * * *

4. Section 998.300 is amended by revising the section heading and paragraph (z) to read as follows:

§ 998.300 Terms and conditions of indemnification—1992 crop peanuts.

* * * * *

(z) Not withstanding the provisions of any other paragraph of these Terms and Conditions, the total payments and expenses allocated to indemnification claims, minus salvage proceeds, shall not exceed $9,000,000 in the aggregate. To assure that the $9,000,000 limit is not exceeded while dealing with claims' expenses on an equitable basis, the following payment schedule shall be followed:

(1) Authorized costs for blanching and remilling fees, freight and assay costs allocated to claims shall be paid pursuant to these Terms and Conditions, unless the Committee projects that these costs are likely to exceed the $9,000,000 limitations.

(2) If not more than 800 claims for indemnification have been filed with the Committee by December 31 of the current crop year, the Committee shall pay claimants for the applicable indemnification payment on indemnified peanuts covered by claims which are determined to be valid pursuant, to these Terms and Conditions.

(3) If more than 800 but not more than 1300 claims for indemnification have been filed with the Committee by December 31 of the current crop year, the Committee shall pay claimants at the rate prescribed in paragraph (x) of the Terms and Conditions, for "additional peanuts," on indemnified peanuts covered by claims, as determined to be valid pursuant to these Terms and Conditions.

(4) If more than 1300 but not more than 2500 claims for indemnification have been filed with the Committee by December 31 of the current crop year, indemnification payments for the peanuts removed in the remilling and/or blanching process shall be delayed until December 31 of the calendar year following the current crop year, or until other action is prescribed by the Committee, with the approval of the Secretary.

(5) If more than 2500 claims for indemnification have been filed with the Committee on or before December 31 of the current crop year, or if projections indicate that the total number of claims during the crop year may be approximately 6,000 or more, or if projections indicate that the aggregate costs of the claims' expense items referred to in paragraph (z)(1), minus salvage, might exceed the $9,000,000 limit, alternative methods or rates of payment shall be prescribed by the Committee, with the approval of the Secretary.

Dated: July 30, 1992.

Robert C. Keeney,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 92-18371 Filed 7-31-92; 8:45 am]

BILLING CODE 3410-02-M

FEDERAL RESERVE SYSTEM

12 CFR Part 201

[Regulation A]

Extensions of Credit by Federal Reserve Banks; Change in Discount Rates

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: The Board of Governors has amended its Regulation A on Extensions of Credit by Federal Reserve Banks to reflect its approval of a reduction in the basic discount rate at each Federal Reserve Bank. The Board has also amended Regulation A to change the rate for seasonal credit from a fixed rate to a flexible rate. The Board acted on requests submitted by the Boards of Directors of the twelve Federal Reserve Banks.

EFFECTIVE DATES: These amendments to part 201 (regulation A) were effective July 27, 1992. The rate changes for short-term adjustment credit and for other extended credit were effective on the dates specified in §§ 201.51 and 201.52(b), respectively. The rate changes for seasonal credit in § 201.52(a) were effective January 9, 1992.

FOR FURTHER INFORMATION CONTACT: William W. Wiles, Secretary of the Board (202/452-3257); for the hearing impaired *only*, Telecommunications Device for the Deaf (TTD) (202/452-3544), Dorothea Thompson, Board of Governors of the Federal Reserve System, Washington, DC 20551.

SUPPLEMENTARY INFORMATION: Pursuant to the authority of sections 10(b), 13, 14, 19, et al., of the Federal Reserve Act, the Board has amended its Regulation A (12 CFR part 201) to incorporate changes in discount rates on Federal Reserve Bank extensions of credit. The discount rates are the interest rates charged to depository institutions when they borrow from their district Reserve Banks.

The "basic discount rate" is a fixed rate charged by Reserve Banks for short-term adjustment credit and, during an initial borrowing period, for other extended credit. In reducing the basic discount rate, the Board acted on requests submitted by the Boards of Directors of the twelve Reserve Banks. The new rates were effective on the dates specified below. The reduction was made in light of sustained weakness in credit and money growth, continued movement toward price stability, and the uneven progress of the economic recovery.

In November 1990, the Board announced a change in the seasonal credit rate from a fixed rate (identical to the basic discount rate) to a flexible market-based rate, effective January 9, 1992. Seasonal credit is designed to make funds available at the discount window to small and mid-sized agricultural banks that do not have access to national money markets. It is also used to some extent by banks in resort areas. A typical use of the program is to fund farmers over the planting and production cycle. The Board believes that the seasonal credit program continues to meet legitimate funding needs for many smaller banks. However, charging the basic discount rate for seasonal credit could be construed as an interest-rate subsidy to borrowers or a form of credit allocation. Thus, the Board determined that a market-based rate for seasonal credit would be more appropriate than the fixed basic discount rate. The flexible rate for seasonal credit is based on the federal funds rate and the secondary-market rate on ninety-day large certificates of deposit as measured over the previous reserve maintenance period, but in no case would this rate be less than the basic discount rate applicable to short-term adjustment credit.

The provisions of 5 U.S.C. 553(b) relating to notice and public participation were not followed in connection with the adoption of these amendments because the Board for the "good cause" stated above finds that delaying the changes in the basic discount rate and the seasonal credit rate calculation in order to allow notice and public comment on the changes is impracticable, unnecessary, and contrary to the public interest.[1]

The provisions of 5 U.S.C. 553(d) that prescribe 30 days' prior notice of the effective date of a rule have not been followed because section 553(d) provides that such prior notice is not necessary whenever there is good cause for finding that such notice is contrary to the public interest. As previously stated, the Board determined that delaying the changes in the basic discount rate and the seasonal credit rate calculation is contrary to the public interest.

Regulatory Flexibility Act Analysis

Pursuant to section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601-612), the Board certifies that the change to the basic discount rate will not have a significant adverse economic impact on a substantial number of small entities. The change reduces the rate of interest charged to borrowers from Reserve Banks, and the amendments will have no general effect on regulatory burdens for all depository institutions, no specific effect on such burdens for small depository institutions, and have no particular adverse effect on other small entities.

The change in the seasonal credit rate from a fixed to a flexible market-based rate will result in a higher rate of interest paid by borrowers under the seasonal credit program, who are generally small depository institutions. The Board believes, however, that the higher cost of funds under the new seasonal credit rate is outweighed by the equity of employing a market-based rate for this type of longer-term credit.

List of Subjects in 12 CFR Part 201

Banks, Banking, Credit, Federal Reserve System.

For the reasons outlined above, the Board of Governors amends 12 CFR part 201 as set forth below:

1. The authority citation for 12 CFR part 201 continues to read as follows:

Authority: Secs. 10(a), 10(b), 13, 13a, 14(d) and 19 of the Federal Reserve Act (12 U.S.C. 347a, 347b, 343 *et seq.*, 347c, 348 *et seq.*, 357, 374, 374a and 461); and sec. 7(b) of the International Banking Act of 1978 (12 U.S.C. 347d).

2. Section 201.51 is revised to read as follows:

[1] The Board's Rules of Procedure provide that advance notice and deferred effective date will ordinarily be omitted in the public interest for changes in discount rates. 12 CFR 262.2(e).

§ 201.51 Short-term adjustment credit for depository institutions.

The rates for short-term adjustment credit provided to depository institutions under § 201.3(a) are:

Federal reserve bank	Rate	Effective
Boston	3.0	July 2 1992.
New York	3.0	July 2, 1992.
Philadelphia	3.0	July 2, 1992.
Cleveland	3.0	July 6, 1992.
Richmond	3.0	July 2, 1992.
Atlanta	3.0	July 2, 1992.
Chicago	3.0	July 2, 1992.
St. Louis	3.0	July 7, 1992.
Minneapolis	3.0	July 2, 1992.
Kansas City	3.0	July 2, 1992.
Dallas	3.0	July 2, 1992.
San Francisco	3.0	July 2, 1992.

3. Section 201.52 is revised to read as follows:

§ 201.52 Extended credit for depository institutions.

(a) *Seasonal credit.* The rate for seasonal credit extended to depository institutions under § 201.3(b)(1) is a flexible rate that takes into account rates on market sources of funds, but in no case will the rate charged be less than the rate for short-term adjustment credit as set out in § 201.51.

(b) *Other extended credit.* The rates for other extended credit provided to depository institutions under sustained liquidity pressures or where there are exceptional circumstances or practices involving a particular institution under § 201.3(b)(2) are:

Federal reserve bank	Rate	Effective
Boston	3.0	July 2, 1992.
New York	3.0	July 2, 1992.
Philadelphia	3.0	July 2, 1992.
Cleveland	3.0	July 6, 1992.
Richmond	3.0	July 2, 1992.
Atlanta	3.0	July 2, 1992.
Chicago	3.0	July 2, 1992.
St. Louis	3.0	July 7, 1992.
Minneapolis	3.0	July 2, 1992.
Kansas City	3.0	July 2, 1992.
Dallas	3.0	July 2, 1992.
San Francisco	3.0	July 2, 1992.

These rates apply for the first 30 days of borrowing. For credit outstanding for more than 30 days, a flexible rate will be charged that takes into account rates on market sources of funds, but in no case will the rate charged be less than the rate for short-term adjustment credit, as set out in § 201.51, plus one-half percentage point. Where extended credit provided to a particular depository institution is anticipated to be outstanding for an unusually prolonged period and in relatively large amounts, the 30-day time period may be shortened.

By order of the Board of Governors of the Federal Reserve System, July 27, 1992.

William W. Wiles,

Secretary of the Board.

[FR Doc. 92-18246 Filed 7-31-92; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 92-CE-24-AD; Amendment 39-8330; AD 92-17-01]

Airworthiness Directives; Beech 35 and 36 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes Airworthiness Directive (AD) 80-21-02, which currently requires the installation of a fuel drain line on certain Beech Model A36TC airplanes. The Federal Aviation Administration (FAA) has determined that (1) the applicability of AD 80-21-02 should be extended to include certain Beech 35 series airplanes that are equipped with an optional Teledyne Continental Motors (TCM) TSIO-520-D engine; and (2) the fuel metering units on these airplanes as well as the fuel metering units on the Model A36TC airplanes should be inspected to ensure that there are no fuel leaks and that any leaking unit should be repaired. The actions specified by this AD are intended to prevent a fire in the engine compartment of the airplane caused by fuel leaks from the fuel metering unit or the idle mixture adjustment screw boss.

DATES: Effective September 11, 1992. The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of September 11, 1992.

ADDRESSES: Service information that is applicable to this AD may be obtained from the Beech Aircraft Corporation, P.O. Box 85, Wichita, Kansas 67201-0085. This information may also be examined at the FAA, Central Region, Office of the Assistant Chief Counsel, room 1558, 601 E. 12th Street, Kansas City, Missouri 64106; or at the Office of the Federal Register, 800 North Capitol Street, NW., Suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. James M. Peterson, Aerospace Engineer, Wichita Aircraft Certification Office, FAA, 1801 Airport Road, Mid-Continent Airport, Wichita, Kansas 67209; Telephone (316) 946-4145; Facsimile (316) 946-4407.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations to include an AD that is applicable to certain Beech 35 and 36 series airplanes was published in the Federal Register on April 24, 1992 (57 FR 15036). The action proposed to supersede AD 80-21-02, Amendment 39-3968 (45 FR 74468, November 10, 1980), with a new AD that would: (1) Retain the fuel drain line installation required on certain Beech Model A36TC airplanes; (2) extend this fuel drain line installation to certain 35 series airplanes that are equipped with an optional TCM TSIO-520-D engine; (3) require an inspection of the fuel metering unit for leaks on all of the affected airplanes, and repair of the fuel unit if fuel leaks are found; and (4) require replacement of any deteriorated fuel drain hoses that have been installed in accordance with AD 80-21-02. The actions would be accomplished in accordance with Beech Service Bulletin No. 2420, dated February 1992.

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were received on the proposed rule or the FAA's determination of the cost to the public.

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

The FAA estimates that 2,729 airplanes in the U.S. registry will be affected by this AD, that it will take approximately 1.5 workhours per airplane to accomplish the required action, and that the average labor rate is approximately $55 an hour. Parts cost approximately $50 per airplane. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $361,592.50.

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

For the reasons discussed above, I certify that this action (1) is not a "major

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety

Adoption of the Amendment

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

PART 39—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 removing AD 80–21–02, Amendment 39–3968 (45 FR 74468, November 10, 1980), and adding the following new AD:

92–17–01 Beech: Amendment 39–8330; Docket No. 92–CE–24–AD. Supersedes AD 80–21–02, Amendment 39–3968.Q02

Applicability: The following Model airplanes, certificated in any category:

1. A36TC, serial numbers EA–1 through EA–146.

2. S35, V35, V35A and V35B, serial numbers D–7140 and D–7310 through D–10403, that are equipped with an optional Teledyne Continental Motors (TCM) TSIO–520–D engine.

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

To prevent a fire in the engine compartment of the airplane caused by fuel leaks from the fuel metering unit or the idle mixture adjustment screw boss, accomplish the following:

(a) For Model A36TC airplanes, determine whether a fuel drain hose is installed by accomplishing paragraphs 1. and 2. of PART I of the ACCOMPLISHMENT INSTRUCTIONS section of Beech Service Bulletin (SB) No. 2420, dated February 1992.

(1) If a fuel drain hose is not installed, prior to further flight, accomplish the following:

(i) Inspect the fuel metering unit for fuel leaks in accordance with paragraph 2. of PART II of the ACCOMPLISHMENT INSTRUCTIONS section of Beech SB No. 2420, dated February 1992.

(ii) Repair any fuel metering units found leaking as a result of the inspection required by paragraph (a)(1)(i) of this AD in accordance with paragraphs 3. and 4. of PART II of the ACCOMPLISHMENT INSTRUCTIONS section of Beech SB No. 2420, dated February 1992.

(iii) Install a fuel drain hose, part number (P/N) 106200G8–288, over the idle mixture screw boss in accordance with paragraphs 5. through 8. of PART II of the ACCOMPLISHMENT INSTRUCTIONS section of Beech SB No. 2420, dated February 1992.

(2) If a fuel drain hose is installed, prior to further flight, accomplish the following:

(i) Inspect the fuel metering unit for fuel leaks in accordance with paragraph 2. of PART II of the ACCOMPLISHMENT INSTRUCTIONS section of Beech SB No. 2420, dated February 1992.

(ii) Repair any fuel metering units found leaking as a result of the inspection required in paragraph (a)(2)(i) of this AD in accordance with paragraphs 3. and 4. of PART II of the ACCOMPLISHMENT INSTRUCTIONS section of Beech SB No. 2420, dated February 1992.

(iii) Check the condition of the fuel drain hose, and replace any hose that is deteriorated with a new hose, P/N 106200G8–288, in accordance with paragraphs 5. through 8. of PART II of the ACCOMPLISHMENT INSTRUCTIONS section of Beech SB No. 2420, dated February 1992.

(b) For Models S35, V35, V35A and V35B airplanes that are equipped with an optional TCM TSIO–520–D engine, accomplish the following:

(1) Inspect the fuel metering unit for fuel leaks in accordance with paragraph 2. of PART II of the ACCOMPLISHMENT INSTRUCTIONS section of Beech SB No. 2420, dated February 1992.

(2) Prior to further flight, repair any fuel metering units found leaking as a result of the inspection required by paragraph (b)(1) of this AD in accordance with paragraphs 3. and 4. of PART II of the ACCOMPLISHMENT INSTRUCTIONS section of Beech SB No. 2420, dated February 1992.

(3) Install a fuel drain hose, part number (P/N) 106200G8–288, over the idle mixture screw boss in accordance with paragraphs 5. through 8. of PART II of the ACCOMPLISHMENT INSTRUCTIONS section of Beech SB No. 2420, dated February 1992.

(c) 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.

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

Note: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Wichita Aircraft Certification Office.

(e) The inspections, installation, and possible repairs required by this AD shall be done in accordance with Beech Service Bulletin No. 2420, dated February 1992. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from the Beech Aircraft Corporation, P.O. Box 85, Wichita, Kansas 67201–0085. Copies may be inspected at the FAA, Central Region, Office of the Assistant Chief Counsel, room 1558, 601 E. 12th Street, Kansas City, Missouri, or at the Office of the Federal Register, 800 North Capitol Street, NW., Suite 700, Washington, DC.

(f) This amendment (39–8330) supersedes AD 80–21–02, Amendment 39–3968.

(g) This amendment (39–8330) becomes effective on September 11, 1992.

Issued in Kansas City, Missouri, on July 17, 1992.

Barry D. Clements,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 92–18097 Filed 7–31–92; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 39

[Docket No. 92–NM–31–AD; Amendment 39–8306; AD 92–15–12]

Airworthiness Directives; Aerospatiale Model ATR42–300 and –320 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Aerospatiale Model ATR42–300 and –320 series airplanes, that requires modification of the nose landing gear (NLG) retraction control logic, and a functional test of the landing gear retraction manual override control. This amendment is prompted by investigation results which revealed that, on airplanes with manual override capability on the normal landing gear selector, the landing gear could be raised with the nose wheel not centered, which could jam the nose gear in the up position. The actions specified by this AD are intended to prevent a gear-up landing.

DATES: Effective September 8, 1992. The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of September 8, 1992.

ADDRESSES: The service information referenced in this AD may be obtained from Aerospatiale, 316 Route de

Bayonne, 31060 Toulouse, Cedex 03, France. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. Gary Lium, Aerospace Engineer, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98055–4056; telephone (206) 227–1112; fax (206) 227–1320.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations to include an airworthiness directive (AD) that is applicable to certain Aerospatiale Model ATR42–300 and –320 series airplanes was published in the **Federal Register** on April 17, 1992 (57 FR 13669). That action proposed to require modification of the nose landing gear (NLG) retraction control logic, and a functional test of the landing gear retraction manual override control.

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were submitted in response to the proposal or the FAA's determination of the cost to the public.

Paragraph (b) of the final rule has been revised to clarify the procedure for requesting alternative methods of compliance with this AD.

The FAA has determined that air safety and the public interest require the adoption of the rule with the change described. The FAA has determined that this change will neither increase the economic burden on any operator nor increase the scope of the AD.

The FAA estimates that 8 airplanes of U.S. registry will be affected by this AD, that it will take approximately 13 work hours per airplane to accomplish the required actions, and that the average labor rate is $55 per work hour. Required parts will be supplied by the manufacturer at no cost to the operators. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $5,720 or $715 per airplane. This total cost figure assumes that no operator has yet accomplished the requirements of this AD.

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

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

PART 39—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:

92–15–12. Aerospatiale: Amendment 39–8306. Docket 92–NM–31–AD.

Applicability: Model ATR42–300 and –320 series airplanes on which Modification 1694 (Aerospatiale Service Bulletin ATR42–32–0021) has been accomplished and on which Modification 2063 (Aerospatiale Service Bulletin ATR42–32–0028) has not been accomplished, certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent a gear-up landing, accomplish the following:

(a) Within 6 months after the effective date of this AD, modify the nose landing gear (NLG) retraction control logic, and perform a functional test of the landing gear retraction manual override control, in accordance with Aerospatiale Service Bulletin ATR42–32–0028, Revision 3, dated February 12, 1991.

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Standardization Branch.

Note: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Standardization Branch.

(c) 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.

(d) The modification and functional test shall be done in accordance with Aerospatiale Service Bulletin ATR42–32–0028, Revision 3, dated February 12, 1991, which includes the following list of effective pages:

Page No.	Revision level	Date
1–2, 11, 13–21...	3	February 12, 1991.
3–10, 12	1	February 23, 1990.

This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Aerospatiale, 316 Route de Bayonne, 31060 Toulouse, Cedex 03, France. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(e) This amendment becomes effective on September 8, 1992.

Issued in Renton, Washington, on June 30, 1992.

Bill R. Boxwell,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 92–18098 Filed 7–31–92; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 39

[Docket No. 91–NM–265–AD; Amendment 39–8303; AD 92–15–09]

Airworthiness Directives; British Aerospace Model ATP Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain British Aerospace Model ATP series airplanes, that requires repetitive application of rain repellent fluid onto the windshields and adjacent sliding side windows. A terminating action is also provided, which, when accomplished, eliminates the need for repetitive applications of

rain repellent fluid. This amendment is prompted by reports of poor visibility during adverse weather, resulting from the inadequate operation of windshield washers and wipers. The actions specified by this AD are intended to prevent poor visibility through the windshield and adjacent sliding side window, which could adversely affect the pilot's and co-pilot's ability to navigate the airplane visually.

DATES: Effective September 8, 1992. The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of September 8, 1992.

ADDRESSES: The service information referenced in this AD may be obtained from British Aerospace, PLC, Librarian for Service Bulletins, P.O. Box 17414, Dulles International Airport, Washington, DC 20041–0414. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. William Schroeder, Aerospace Engineer, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98055–4056; telephone (206) 227–2148; fax (206) 227–1320.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations to include an airworthiness directive (AD) that is applicable to all British Aerospace Model ATP series airplanes was published in the Federal Register on January 22, 1992 (57 FR 2488). That action proposed to require repetitive application of rain repellent fluid onto the windshields and adjacent sliding side windows. A terminating action is also provided, which, when accomplished, eliminates the need for repetitive applications of rain repellent fluid.

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

One commenter supports the proposed rule.

A second commenter requests that the proposal be revised to require the installation of Modification 35073A alone as terminating action for the repetitive applications of Repcon rain repellent as would be required by proposed paragraph (a). As proposed, paragraph (d) would require that two modifications, 35073A and 35198A, be accomplished in order to terminate this repetitive requirement. In support of this request, the commenter indicates that a conflict exists between the two service bulletins cited in the proposal. British Aerospace Service Bulletin ATP–30–3, Revision 3, dated October 19, 1990, which applies only to pre-modification 35073A airplanes, indicates that once Modification 35073A is installed, repetitive applications of Repcon rain repellent would no longer be necessary. Conversely, British Aerospace Service Bulletin ATP–30–10, dated September 30, 1991, states that two modifications, 35073A and 35198A, must be accomplished before the repetitive applications of Repcon may be discontinued.

The commenter notes that, while Modification 35073A involves relocating the windscreen washer nozzles to provide a better spray pattern of fluid, Modification 35198A does not affect the pattern of fluid spray on the windscreen. The commenter concludes that the intent of applying Repcon to the windscreen is to improve the flow of washer fluid onto the windscreens as an interim measure until Modification 35073A is installed; therefore, once that modification is accomplished, repetitive applications of Repcon would no longer be necessary.

The FAA concurs. The FAA has determined that the installation of Modification 35073A alone would discontinue the need for repetitive applications of Repcon. Additionally, the manufacturer has confirmed that this was its intent in recommending that modification. Paragraph (d) of the final rule has been revised accordingly.

Since issuance of the Notice, British Aerospace has issued Revision 1 to Service Bulletin ATP–30–10, dated February 24, 1992, which revises the service bulletin effectivity listing and provides materials cost and availability information that was not included at the time the service bulletin was originally issued. The FAA has revised the final rule to limit the applicability of the AD and to include this latest revision to the service bulletin as an appropriate service information source.

Paragraph (e) of the final rule has been revised to clarify the procedure for requesting alternative methods of compliance with this AD.

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

The FAA estimates that 10 airplanes of U.S. registry will be affected by this AD, that it will take approximately 30 work hours per airplane to accomplish the required actions, and that the average labor rate is $55 per work hour. Required parts will cost approximately $2,266 per airplane for those airplanes having serial numbers 2001 through 2019. Required parts will cost approximately $372 for all other airplanes. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $3,916 per airplane for those airplanes having serial numbers 2001 through 2019; and $2,022 per airplane for all other airplanes. This total cost figure assumes that no operator has yet accomplished the requirements of this AD.

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

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

PART 39—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:

92-15-09. British Aerospace: Amendment 39-8303. Docket 91-NM-265-AD.

Applicability: Model ATP series airplanes; serial numbers 2001 through 2041, inclusive; certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent poor windshield visibility, which could adversely affect the pilot's and co-pilot's ability to navigate the airplane visually, accomplish the following:

(a) For airplanes having serial numbers 2001 through 2041: Within 14 days after the effective date of this AD, and thereafter at intervals not to exceed 50 hours time-in-service, apply Repcon wipe-on rain repellent, or other equivalent rain repellent, onto the windshields and adjacent sliding side windows, in accordance with British Aerospace Service Bulletin ATP-30-3, Revision 3, dated October 19, 1990.

(b) For airplanes having serial numbers 2001 through 2019: Within 9 months after the effective date of this AD, relocate the windshield washer nozzles by incorporating Modification 35073A, in accordance with British Aerospace Service Bulletin ATP-30-10, dated September 30, 1991; or Revision 1, dated February 24, 1992.

(c) For airplanes having serial numbers 2001 through 2041: Within 9 months after the effective date of this AD, reroute the windshield washer fluid supply lines by incorporating Modification 35198A, in accordance with British Aerospace Service Bulletin ATP-30-10, dated September 30, 1991; or Revision 1, dated February 24, 1992.

(d) Accomplishment of the modification required by paragraph (b) of this AD constitutes terminating action for the requirements of paragraph (a) of this AD.

(e) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Standardization Branch, ANM-113, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Standardization Branch.

Note: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Standardization Branch.

(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.

(g) The rain repellent fluid applications shall be done in accordance with British Aerospace Service Bulletin ATP-30-3, Revision 3, dated October 19, 1990, which includes the following list of effective pages:

Page No.	Revision level	Date
1	3	October 19, 1990.
2-4	Original	November 1988.

The modifications shall be done in accordance with British Aerospace Service Bulletin ATP-30-10, dated September 30, 1991; or British Aerospace Service Bulletin ATP-30-10, Revision 1, dated February 24, 1992. These service bulletins contain the following list of effective pages:

Service bulletin number	Page number	Revision level	Date
ATP-30-10, Original Issue	1-9, 11, 13, 15, 17, 19	Original	September 30, 1991.
	10, 12, 14, 16, 18	(These pages are not used)	
ATP-30-10, Revision 1	1-9, 9A, 17, 19	1	February 24, 1992.
	11, 13, 15	Original	September 30, 1991.
	10, 12, 14, 16, 18	(These pages are not used)	

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 British Aerospace, PLC, Librarian for Service Bulletins, P.O. Box 17414, Dulles International Airport, Washington, DC 20041-0414. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(h) This amendment becomes effective on September 8, 1992.

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

Bill R. Boxwell,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 92-18099 Filed 7-31-92; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 92-ASW-12; Amendment 39-8250; AD 92-11-01]

Airworthiness Directive; Messerschmitt-Bolkow-Blohm Model BO 105 LS A-3 Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive that is applicable to Messerschmitt-Bolkow-Blohm (MBB) Model BO 105 LS A-3 helicopters equipped with certain torque indication hose assemblies. This action requires replacement of the existing non-fire resistant hoses (one located on each engine) with fire resistant hoses. This amendment is prompted by the discovery of non-fire resistant torque indication hoses located in the engine fire zones. The actions specified in this AD are intended to prevent the failure of a torque indication hose during an engine fire, thereby fueling the fire with engine oil and leading to further damage and possible loss of the helicopter.

DATES: Effective August 28, 1992.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of August 28, 1992.

Comments for inclusion in the Rules Docket must be received by September 17, 1992.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Office of the Assistant Chief Counsel, Attention: Rules Docket No. 92-ASW-12, 4400 Blue Mound Road, Fort Worth, Texas 76193-0007.

The service information referenced in this AD may be obtained from MBB Helicopter Corporation, 900 Airport Road, P.O. Box 2349, West Chester, Pennsylvania 19380. This information may be examined at the FAA, Office of the Assistant Chief Counsel, Rules Docket, 4400 Blue Mound Road, Bldg. 3B, room 158, Fort Worth, Texas; or at the Office of the Federal Register, 800 North

Capitol Street NW., suite 700 Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. Raymond Reinhardt, Aerospace Engineer, FAA, New York Aircraft Certification Office, Propulsion Branch, ANE–174, New England Region, 181 S. Franklin Avenue, Valley Stream, New York 11581; telephone (516) 791–7421.

SUPPLEMENTARY INFORMATION: The Canadian Air Transportation Administration, known as Transport Canada, which is the airworthiness authority for Canada, recently notified the FAA that an unsafe condition may exist on MBB Model BO 105 LS A–3 helicopters with serial numbers (S/N) 2001 through 2037. Transport Canada advises that the torque indication hose, part number (P/N) AE707355–1, is not fire resistant. This hose must be fire resistant as required by FAR 27.1183(a).

MBB Helicopter Canada Ltd. has issued Alert Service Bulletin No. ASB–BO 105 LS–60–4, Revision 1, dated November 15, 1991, that specifies that the affected part must be replaced with an airworthy fire resistant hose, P/N AE705145–14. Transport Canada classified this service bulletin as mandatory and issued Airworthiness Directive Number CF–91–41 in order to assure the airworthiness of these helicopters.

This helicopter model is manufactured in Canada and is type certificated for operation in the United States under the provisions of Section 21.29 of the Federal Aviation Regulations and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, Transport Canada has kept the FAA informed of the situation described above. The FAA has examined the findings of Transport Canada, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Since this condition described is likely to exist or develop on other helicopters of the same type design registered in the United States, this AD is being issued to help prevent failure of the torque indication hose during an engine fire, thereby fueling the fire with engine oil and leading to further damage and possible loss of the helicopter. This AD requires replacement of the affected hoses with fire resistant hoses. The required actions are to be accomplished in accordance with the service bulletin previously described.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and opportunity for prior public comment hereon are impracticable, and that good cause exists for making this amendment effective in less than 30 days.

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified under the caption "ADDRESSES." All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this final rule must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 92–ASW–12." The postcard will be date stamped and returned to the commenter.

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

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

PART 39—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 (AD):

AD 92–11–01 Messerschmitt-Bolkow-Blohm (MBB): Amendment 39–8250.

Docket Number 92–ASW–12.

Applicability: MBB Model BO 105 LS A–3 helicopters, serial numbers (S/N) 2001 through 2037, certificated in any category and equipped with a torque indication hose assembly, part number (P/N) AE707355–1.

Compliance: Required no later than July 31, 1992, unless previously accomplished.

To prevent failure of the torque indication hose assembly during an engine compartment fire, thereby fueling the fire with engine oil and leading to possible loss of the helicopter, accomplish the following:

(a) Replace the existing torque indication hose, P/N AE707355–1, on each engine with a new fire resistant torque indication hose, P/N AE705145–14, in accordance with Part 2, Accomplishment Instructions of MBB Alert Service Bulletin No. ASB–BO 105 LS–60–4, Revision 1, dated November 15, 1991.

(b) special flights permits may be issued in accordance with FAR 21.197 and 21.199 to operate the helicopter to a location where the requirements of this AD can be accomplished.

(c) An alternative method of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may

be used when approved by the Manager, New York Aircraft Certification Office, FAA, 181 South Franklin Avenue, Room 202, Valley Stream, New York 11581. The request shall be forwarded through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager of the New York Aircraft Certification Office.

NOTE: Information concerning the existence of approved alternative methods of compliance with this airworthiness directive, if any, may be obtained from the Manager, New York Aircraft Certification Office.

(d) The removal and replacement of the torque indication hose shall be done in accordance with Part 2, Accomplishment Instructions of MBB Helicopters Alert Service Bulletin No. ASB-BO 105 LS-60-4, which incorporates the following pages:

Pages	Revision level	Date
1 through 2	Revision 1	Nov. 15, 1991.
3 through 5	Original	Aug. 30, 1991.

This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR Part 51. Copies may be obtained from MBB Helicopter Corporation, 900 Airport Road, P.O. Box 2349, West Chester, Pennsylvania 19380. Copies may be inspected at the FAA, Office of the Assistant Chief Counsel, 4400 Blue Mound Road, Bldg. 3B, Room 158, Fort Worth, Texas; or at the Office of the Federal Register, 800 North Capitol Street, NW., Suite 700, Washington, DC.

(e) This amendment becomes effective on August 28, 1992.

Issued in Fort Worth, Texas, on April 22, 1992.

A.J. Merrill,

Acting Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 92-18098 Filed 7-31-92; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 91-ANE-40; Amendment 39-8301; AD 92-15-07]

Airworthiness Directives; Textron Lycoming LTS101 Turboshaft and LTP101 Turboprop Series Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This document supersedes an existing airworthiness directive (AD) applicable to Textron Lycoming LTS101 series turboshaft and LTP101 series turboprop engines that currently requires initial and repetitive inspections of all integrally cast power turbine (PT) rotors for blade cracking, and removal of rotors containing a crack. This amendment eliminates one of the current inspection methods, adds additional inspection requirements, identifies affected PT rotor part numbers, and establishes PT rotor speed ranges that must be avoided. This amendment is prompted by integrally cast PT rotor blades continuing to separate since issuance of the current AD. The actions specified by this AD are intended to prevent fracture of the integrally cast PT rotor blade, which can result in engine power loss and uncontained engine failure.

DATES: Effective September 2, 1992.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of September 2, 1992.

ADDRESSES: The service information referenced in this AD may be obtained from Textron Lycoming, Technical Publications, Department 30V, 550 South Main Street, Stratford, Connecticut 06497, and Bell Helicopter Textron, P.O. Box 482, Fort Worth, Texas 76101. This information may be examined at the Federal Aviation Administration (FAA), New England Region, Office of the Assistant Chief Counsel, Room 311, 12 New England Executive Park, Burlington, Massachusetts; or at the Office of the Federal Register, 800 North Capitol Street NW., Suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: John E. Golinski, Engine Certification Office, ANE-140, FAA, New England Region, Engine & Propeller Directorate, Aircraft Certification Service, 12 New England Executive Park, Burlington, Massachusetts 01803-5299; telephone (617) 273-7121; fax (617) 270-2412.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations by superseding airworthiness directive (AD) 87-11-09, Amendment 39-5902 (53 FR 16386, May 9, 1988), which is applicable to Textron Lycoming LTS101 series turboshaft and LTP101 series turboprop engines, was published in the Federal Register on November 25, 1991 (56 FR 59234). That action proposed to require periodic inspections of the power turbine (PT) rotor in accordance with Textron Lycoming Service Bulletin (SB) No. LT 101-72-00-0093, Revision 5, dated January 15, 1990, that includes Commercial Service Letter (CSL) 063 R-1, dated May 31, 1991. That action also proposed to establish PT rotor speed ranges for Textron Lycoming LTS101 turboshaft engines that must be avoided in accordance with Textron Lycoming SB No. LTS 101C-72-00-0131, dated September 17, 1990; Bell Helicopter Textron Alert Service Bulletin (ASB) No. 222-90-57, dated December 21, 1990; and Bell Helicopter Textron ASB No. 222U-90-30, dated December 21, 1990.

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

The commenter suggests adding language in the applicability paragraph to differentiate integrally cast PT rotors from the PT rotors with insertable blades. The FAA does not concur. In paragraphs (a), (b), and (c) of this final rule, the affected parts are clearly identified by part number. There is no need to further distinguish between affected and unaffected parts.

The commenter also suggests that the statement of unsafe condition should be changed to specify the integrally cast PT rotor blade to assist in identification of the part. The FAA concurs and has changed the statement accordingly.

The FAA has also reviewed the requirements of the NPRM for clarity and style. Minor changes have been made to paragraphs (a) and (b) for clarity, such as defining hours as hours time in service and inserting the words "PT rotor" before "blade cracks." In addition, without altering their substance, paragraphs (a), (b), (d), and (e) of the AD have been reworded for style.

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

There are approximately 935 LTS101 and LTP101 series engines of the affected design in the worldwide fleet. The FAA estimates that 368 engines installed on aircraft of U.S. registry will be affected by this AD, that it would take approximately 3 manhours per engine to accomplish the required actions, and that the average labor rate would be $55 per manhour. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $60,720.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is

determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration (FAA) amends 14 CFR Part 39 of the Federal Aviation Regulations (FAR) 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 removing amendment 39–5902 (53 FR 16386, May 9, 1988), and by adding a new airworthiness directive, Amendment 39–8301, to read as follows:

AD 92–15–07 *Textron Lycoming*: Amendment 39–8301, Docket No. 91–ANE–40. Supersedes AD 87–11–09, Amendment 39–5902.

Applicability: Textron Lycoming LTS101 series turboshaft and LTP101 series turboprop engines installed on but not limited to Aerospatiale AS350, Bell 222, and MBB BK117 helicopters; and Piaggio P166–DL3, Airtractor AT302, and Cessna 421 airplanes.

Compliance: Required as indicated, unless accomplished previously.

To prevent fracture of the integrally cast power turbine (PT) rotor blade, which can result in engine power loss and uncontained engine failure, accomplish the following:

(a) Perform a Type I, Method C fluorescent penetrant inspection of Part Number (P/N) 4–141–070–XX and P/N 4–143–010–XX PT rotors installed in engines, in accordance with the procedures in Textron Lycoming Service Bulletin (SB) Number LT 101–72–00–0093, Revision 5, dated January 15, 1990, as follows:

(1) Inspect for PT rotor blade cracks within 50 hours time in service (TIS) or 300 PT cycles in service (CIS), whichever occurs first, since accomplishing the last inspection performed in accordance with AD 87–11–09.

(2) Thereafter, reinspect for PT rotor blade cracks at intervals not to exceed 50 hours TIS or 300 PT CIS, whichever occurs first, since the last Type I, Method C fluorescent penetrant inspection performed in accordance with paragraph (a) of this AD.

(3) Remove from service prior to further flight, cracked PT rotors found during the inspections required by paragraphs (a)(1) and (a)(2) of this AD. Prior to returning to service, replace with a serviceable PT rotor.

Note: For information on PT rotor cycle and counting methodology consult the latest revision to Textron Lycoming SB No. LT 101–71–00–0002.

(b) Perform a Type I, Method D fluorescent penetrant inspection of P/N 4–141–070–XX and P/N 4–143–010–XX PT rotors prior to installation into a PT module or prior to returning to service, in accordance with Textron Lycoming SB No. LT 101–72–00–0093, Revision 5, dated January 15, 1990. Cracked PT rotors found during this fluorescent penetrant inspection shall not be returned to service and must be replaced with a serviceable PT rotor.

(c) For PT rotors P/N 4–141–070–XX and P/N 4–143–010–XX installed in LTS101–650C–3, LTS101–650C–3A, and LTS101–750C–1 series engines, avoid continuous operation at certain PT operating speeds in accordance with Textron Lycoming SB Number LTS101C–72–00–0131, dated September 17, 1990, Bell Helicopter Textron Alert SB 222U–90–30, dated December 21, 1990, and Alert SB 22–90–57, dated December 21, 1990, within 20 hours time in service, after effective date of this AD, as follows:

(1) Avoid continuous engine operation at 97% to 98.5% power turbine (Np) speed, including autorotation and single engine operation. Operation in this speed range is only permitted for topping checks and when operations in this range are necessary to maintain safe flight.

(2) Install a cockpit tachometer decal and add the temporary rotorcraft flight manual supplement in accordance with applicable Bell Helicopter Textron ASB No. 222U–90–30 or Bell Helicopter Textron ASB No. 222–90–57, as applicable.

(d) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Engine Certification Office, FAA, Engine and Propeller Directorate. The request should be forwarded through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager Engine Certification Office.

Note: Information concerning the existence of approved alternative methods of compliance with this airworthiness directive, if any, may be obtained from the Engine Certification Office.

(e) 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.

(f) The PT rotor inspection and removal criteria, the establishment of the PT rotor speed operation avoidance ranges, rotorcraft modification, and rotorcraft flight manual revisions shall be accomplished in accordance with the following service bulletins:

Document No.	Pages	Issue/revision	Date
Textron Lycoming SB LT 101–72–00–0093 including Commercial Service Letter CSL 063 R–1	1–4	Revision 5	1–15–90
	1–2	Revision 1	5–31–91
Textron Lycoming SB LTS 101C–72–00–0131	1–2	Original	9–17–90
Bell Helicopter Textron Alert SB 222–90–57	1–4	Original	12–21–90
Bell Helicopter Textron Alert SB 222U–90–30	1–4	Original	12–21–90

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 Textron Lycoming, Technical Publications, Department 30V,

550 South Main Street, Stratford, Connecticut 06497, and Bell Helicopter Textron, P.O. Box 482, Fort Worth, Texas 76101. Copies may be inspected at the FAA, New England Region, Office of the Assistant Chief Counsel, Room 311, 12 New England Executive Park, Burlington, Massachusetts; or at the Office of the Federal Register, 800 North Capitol Street, NW., Suite 700, Washington, DC.

(g) This amendment becomes effective on September 2, 1992.

Issued in Burlington, Massachusetts, on June 29, 1992.

Jack A. Sain,

Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 92-18101 Filed 7-31-92; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 91-NM-278-AD; Amendment 39-8304; AD 92-15-10]

Airworthiness Directives; British Aerospace Model BAC 1-11 200 and 400 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD), applicable to British Aerospace Model BAC 1-11 200 and 400 series airplanes, that currently requires a one-time measurement of the voltage and frequency outputs from Static Inverters No. 1 and No. 2, and recalibration, if necessary. This amendment requires repetitive check measurements of the static inverter voltage and frequency outputs, and recalibration, if necessary. A terminating action has also been added, which, when accomplished, eliminates the need for repetitive inspections. This amendment is prompted by a report of inadvertent operation of the stick shaker and stick pusher shortly after take-off, due to a faulty static inverter. The actions specified by this AD are intended to prevent erroneous stick shake and stick push occurrences, which could adversely affect the controllability of the airplane.

DATES: Effective September 8, 1992.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of September 7, 1992.

ADDRESSES: The service information referenced in this AD may be obtained from British Aerospace, PLC, Librarian for Service Bulletins, P.O. Box 17414, Dulles International Airport, Washington, DC 20041-0414. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. William Schroeder, Standardization Branch, ANM-113; FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98055-4056; telephone (206) 227-2148; fax (206) 227-1320.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations by superseding AD 91-01-02, Amendment 39-6846 (55 FR 52038, December 19, 1990), which is applicable to British Aerospace Model BAC 1-11 200 and 400 series airplanes, was published in the **Federal Register** on February 12, 1992 (57 FR 5089). The action proposed to require repetitive check measurements of the static inverter voltage and frequency outputs, and recalibration, if necessary.

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

The commenter supports the proposed rule.

Paragraph (e) of the final rule has been revised to clarify the procedure for requesting alternative methods of compliance with this AD.

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

The FAA estimates that 70 airplanes of U.S. registry will be affected by this AD, that it will take approximately 1.5 work hours per airplane to accomplish the required actions, and that the average labor rate is $55 per work hour. Required parts will cost approximately $1,100 per airplane. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $82,775. This total cost figure assumes that no operator has yet accomplished the requirements of this AD.

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

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

PART 39—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 removing amendment 39-6846 (55 FR 52038, December 19, 1990), and by adding a new airworthiness directive (AD), amendment 39-8304, to read as follows:

92-15-10. British Aerospace: Amendment 39-8304. Docket 91-NM-278-AD. Supersedes AD 91-01-02, Amendment 39-6846.

Applicability: British Aerospace Model BAC 1-11 200 and 400 series airplanes, certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent erroneous stick shake and stick push occurrences, which could adversely affect the controllability of the airplane, accomplish the following:

(a) Within 600 hours time-in-service or within 120 days after January 28, 1991 (the effective date of AD 91-01-02, Amendment 39-6846), whichever occurs first, measure the voltage and frequency outputs of Static Inverters No. 1 and No. 2, in accordance with

the Accomplishment Instructions in British Aerospace Alert Service Bulletin 27–A–PM6005, Issue 1, dated March 28, 1990, or Issue 2, dated June 17, 1991. If the measured voltage and/or frequency do not conform with the tolerances as detailed in the Maintenance Manual, Paragraph E, "Stall Protection—Simulated Flight Condition Check," prior to further flight, remove the inverter from the airplane and recalibrate it in accordance with the service bulletin.

(b) Repeat the measurements required by paragraph (a) of this AD at the later of the times specified in subparagraphs (b)(1) and (b)(2) of this AD:

(1) Within 600 hours time-in-service or 4 months after performing the measurement required by paragraph (a) of this AD, whichever occurs first; or

(2) Within 100 hours time-in-service after the effective date of this AD.

(c) After performing the measurements required by paragraph (b) of this AD, repeat the measurements thereafter at intervals not to exceed 600 hours time-in-service or 4 months, whichever occurs first.

(d) Within 12 months after the effective date of this AD, install Modification PM6005 in the number 1 and 2 inverters, in accordance with British Aerospace Service Bulletin 27–PM6005, dated June 11, 1991. Installation of Modification No. PM6005 in the number 1 and 2 inverters constitutes terminating action for the requirements 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. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate.

Note: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Standardization Branch.

(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.

(g) The measurements and recalibrations shall be done in accordance with British Aerospace Alert Service Bulletin 27–A–PM6005, Issue 1, dated March 28, 1990, or British Aerospace Alert Service Bulletin 27–A–PM6005, Issue 2, dated June 17, 1991. The modifications shall be done in accordance with British Aerospace Alert Service Bulletin 27–PM6005, dated June 11, 1991. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR Part 51. Copies may be obtained from British Aerospace, PLC, Librarian for Service Bulletins, P.O. Box 17414, Dulles International Airport, Washington, DC 20041–0414. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(h) This amendment becomes effective on September 7, 1992.

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

Bill R. Boxwell,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 92–18102 Filed 7–31–92; 8:45 am]

BILLING CODE 4910–13–M

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 92–AGL–4]

Establishment of Transition Area, Gwinner, ND

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action establishes the Gwinner, North Dakota transition area to accommodate a new nondirectional radio beacon (NDB) runway 34 Standard Instrument Approach Procedure (SIAP) to Gwinner-Roger Melroe Field. The intended effect of this action is to ensure segregation of aircraft using instrument approach procedures in instrument conditions from other aircraft operating in visual weather conditions.

EFFECTIVE DATE: 0901 u.t.c. October 15, 1992.

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

SUPPLEMENTARY INFORMATION:

History

On Tuesday, April 21, 1992 the Federal Aviation Administration (FAA) proposed to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) to establish a transition area near Gwinner, North Dakota (57 FR 14521).

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received.

Except for editorial changes, this amendment is the same as that proposed in the notice. Transition areas are published in § 71.181 of Handbook 7400.7 effective November 1, 1991, which is incorporated by reference in 14 CFR 71.1. The transition area listed in this document will be published subsequently in the Handbook.

The Rule

This amendment to part 71 of the Federal Aviation Regulations establishes a transition area at Gwinner, North Dakota to accommodate a new NDB runway 34 Standard Instrument Approach Procedure (SIAP) to Gwinner-Roger Melroe Field. The SIAP is predicated on a non-federal NDB located on the airport. This action will lower the base of controlled airspace from 1200 to 700 feet above the surface in the vicinity of Gwinner-Roger Melroe Field. This action will also change the operating status of the airport from VFR only to include IFR operations concurrent with the SIAP publication.

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

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

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

List of Subjects in 14 CFR Part 71

Aviation safety, Incorporation by reference, Transition areas.

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—[AMENDED]

1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. app. 1348(a), 1354(a), 1510; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 49 U.S.C. 106(g); 14 CFR 11.69.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.7, Compilation of Regulations, published April 30, 1991, and effective November 1, 1991, is amended as follows:

Section 71.181 Designation

* * * * *

AGL ND TA Gwinner, ND [New]

Gwinner-Roger Melroe Field, Gwinner, ND (lat. 46°13'07" N., long. 97°38'36" W.)

That airspace extending upward from 700 feet above the surface within a 7-mile radius of the Gwinner-Roger Melroe Field Airport.

* * * * *

Issued in Des Plaines, Illinois on July 20, 1992.

Chester W. Anderson,

Acting Assistant Manager, Air Traffic Division.

[FR Doc. 92-18144 Filed 7-31-92; 8:45 am]

BILLING CODE 4910-13-M

Coast Guard

33 CFR Part 100

[CGD 09-92-16]

Special Local Regulations: Race Rock Offshore Classic, Lake St. Clair, St. Clair Shores, MI

AGENCY: Coast Guard, DOT.

ACTION: Temporary rule.

SUMMARY: Special Local Regulations are being adopted for the Race Rock Offshore Classic. This event will be held on Lake St. Clair, St. Clair Shores, MI, on the 16th of August, 1992, from 10 a.m. (EDST) until 1 p.m. (EDST), with a rain date on the 17th of August, 1992. This event will have an estimated 50 to 60 high performance power boats racing a closed course race on Lake St. Clair which could pose hazards to navigation in the area. Special Local Regulations which restrict other traffic in the area are necessary to ensure the safety of life and property on portions of Lake St. Clair during this event.

EFFECTIVE DATES: These regulations will become effective from 10 a.m. (EDST) until 1 p.m. (EDST), on August 16, 1992, or on August 17, 1992 (the rain date).

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 July 6, 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 Race Rock Offshore Classic will be conducted on Lake St. Clair, St. Clair Shores, MI, between Gaukler Point and Point Huron, on the 16th of August, 1992, with a rain date on the 17th of August, 1992. This event will have an estimated 50 to 60 high performance power boats racing in a closed course race, which could pose hazards to navigation in the area. In order to provide for the safety of life and property, the Coast Guard will be regulating vessel traffic within this section of Lake St Clair and L'anse Creuse Bay. A no entry zone on the outside of the race course area between the race course and the shoreline will be established from Point Huron south to an east-west line one nautical mile south of Cutoff Canal (commonly known as the Spillway) in which no vessel may enter without prior approval of the Coast Guard Patrol Commander. The area of no entry includes all of the L'anse Creuse Bay area. A no wake zone on the outside of the race course area between the race course and the shoreline will be established from an east-west line one nautical mile south of Cutoff Canal (Spillway) south to Gaukler Point. Commercial vessels desiring to transit the regulated area shall provide prior notification to the Coast Guard Patrol Commander to ensure a safe transit can be made. Recreational vessel traffic desiring to transit the regulated area may do so only with prior approval of the Coast Guard Patrol Commander (Commanding Officer, U.S. Coast Guard Station St. Clair Shores, 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 the proposed 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).

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-T0916 to read as follows:

§ 100.35-T0916 Race Rock Offshore Classic, Lake St. Clair, St. Clair Shores, MI

(a) *Regulated Area*: That portion of Lake St. Clair, St. Clair Shores, MI, enclosed by a southwest line from Point Huron to Gaukler Point, thence northward along the St. Clair Shores, MI Shoreline to Point Huron.

(b) *Special Local Regulations:* (1) The regulated area will be restricted from 10 a.m. (EDST) until 1 p.m. (EDST), on the 16th of August, 1992, or on the rain date of the 17th of August, 1992, at the direction of the Coast Guard Patrol Commander, unless sooner terminated by the Coast Guard Patrol Commander. During the restricted periods, no vessel

may transit, anchor, or remain in the regulated area without the permission of the Coast Guard Patrol Commander. Vessels in the area shall comply with the directions of the Coast Guard Patrol Commander.

(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". Commercial vessels desiring to transit the regulated area shall make an advance request to the Coast Guard Patrol Commander. All transiting vessel traffic 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: July 23, 1992.

G. A. Penington,

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

[FR Doc. 92-18303 Filed 7-31-92; 8:45 am]

BILLING CODE 4910-14-M

FEDERAL MARITIME COMMISSION

46 CFR Parts 550 and 580

[Docket No. 92-28]

Elimination of Certain Regulatory Provisions

AGENCY: Federal Maritime Commission.

ACTION: Final rule.

SUMMARY: The Federal Maritime Commission is amending its regulations governing the publishing, filing and posting of carrier tariffs to eliminate certain outdated or unnecessary regulatory provisions.

EFFECTIVE DATE: August 3, 1992.

FOR FURTHER INFORMATION CONTACT: Bryant L. VanBrakle, *Director*, Bureau of Tariffs, Certification and Licensing, Federal Maritime Commission, 1100 L Street NW., Washington, DC 20573, (202) 523-5796.

SUPPLEMENTARY INFORMATION: Rules and regulations governing the publication and filing of tariffs for the waterborne transportation of property and passengers performed by common carriers in the domestic offshore trades, as required by the Shipping Act, 1916, 46 U.S.C. app. 801 *et seq.*, and the Intercoastal Shipping Act, 1933, 46 U.S.C. app. 843 *et seq.*, are set forth in 46 CFR part 550. Similarly, rules and regulations governing the publication and filing of tariffs for the transportation of property performed by common carriers in the U.S./foreign trades, as required by the Shipping Act of 1984, 46 U.S.C. app. 1701 *et seq.*, are set forth in 46 CFR part 580.

A review of parts 550 and 580 disclosed certain provisions which have expired or which no longer serve any regulatory purpose. Consequently, the Federal Maritime Commission ("Commission") published a proposed rule in the Federal Register on June 4, 1992 (57 FR 23566) which would remove these provisions. Comments in favor of the proposed rule were received from Crowley Maritime Corporation, Sea-Land Service, Inc. and the Inter-American Freight Conference. No adverse comments were received.

Therefore, parts 550 and 580 are being amended to remove certain unnecessary provisions. Section 550.1(a)(9), 46 CFR 550.1(a)(9), provides for the exemption from the tariff filing requirements applicable to the domestic offshore trades for transportation by Puget Sound Tug & Barge Company of general cargo in non-self-propelled barges from Seattle, Washington to the vicinity of Kivalina, Alaska, during calendar years 1988 and 1989. This exemption has expired. Similarly, § 580.12(c), 46 CFR 580.12(c), which provides for the continuation of certain time/volume rate contracts entered into prior to June 18, 1984, until July 17, 1985, or the term specified in the contract, whichever occurs first, has expired.

The Commission is also amending § 550.5(b)(8)(xiv), 46 CFR 550.5(b)(8)(xiv), and removing § 550.8, 46 CFR 550.8. Section 550.5(b)(8)(xiv) refers to the Automobile Manufacturers' Measurements guide, a publication which was indefinitely suspended by the Commission on July 15, 1987 (52 FR 26479). Since then, the Commission has not received any complaints or requests to reinstitute publication of the guide. Consequently, the reference to this publication is deleted.

Section 550.8 governs the filing of tariffs applicable to through intermodal transportation in the United States domestic offshore trades. Joint rail/water and motor/water rates are now exclusively subject to the jurisdiction of the Interstate Commerce Commission. See *Puerto Rico Maritime Shipping Authority* v. *ICC*, 645 F.2d 1102 (D.C. Cir 1981); *Trailer Marine Transportation Co.* v. *FMC*, 602 F.2d 329 (D.C. Cir. 1979). The Commission is, therefore, amending 46 CFR 550.5(b)(8)(xiv) and removing 46 CFR 550.8. New part 514, the Automated Tariff Filing and Information system rules, will be appropriately revised to conform to these changes.

Although the Commission, as an independent regulatory agency, is not subject to Executive Order 12291, dated February 17, 1981, it nonetheless has reviewed the final rule in terms of that order and determined that the final rule is not a "major rule" as defined in Executive Order 12291 because it will not result in:

(1) An annual effect on the economy of $100 million or more;

(2) A major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; or

(3) Significant adverse effects on competition, employment, investment, productivity, innovations, or the ability of United States-based enterprises to compete with foreign-based enterprises in the domestic or export markets.

Pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, the Federal Maritime Commission certifies that the final rule will not have a significant economic impact on a substantial number of small entities, including small businesses, small organizational units and small government jurisdictions, inasmuch as it merely removes outdated or unnecessary regulations.

This final rule does not contain any collection of information requirements as defined by the Paperwork Reduction Act of 1980, as amended. Therefore, OMB review is not required.

List of Subjects

46 CFR Part 550

Maritime carriers, Reporting and recordkeeping requirements.

46 CFR Part 580

Cargo, Cargo vessels, Freight, Exports, Harbors, Imports, Maritime carriers, Rates, Reporting and recordkeeping

requirements, surety bonds, Water carriers, Water transportation.

Therefore, pursuant to 5 U.S.C. 553; sections 18, 35 and 43 of Shipping Act, 1916, 46 U.S.C. app. 817, 833a and 841a; section 2 of the Intercoastal Shipping Act, 1933, 46 U.S.C. app. 844; and sections 8, 10, 11, 12, 13, 17 and 23 of the Shipping Act of 1984, 46 U.S.C. app. 1707, 1709, 1710, 1711, 1712, 1716 and 1722; chapter IV of Title 46, Code of Federal Regulations, is amended as follows:

PART 550—[AMENDED]

1. The authority citation for part 550 continues to read as follows:

Authority: 5 U.S.C. 553; 46 U.S.C. app. 812, 814, 815, 817, 820, 833a, 841a, 843, 844, 845, 845a, 845b, and 847.

§ 550.1 [Removed]

2. Section 550.1(a)(9) is removed.

3. Section 550.5(b)(8)(xiv)(A) introductory text is revised to read as follows:

§ 550.5 Contents of tariffs.

* * * * *

(b) * * *

(8) * * *

(xiv) * * *

(A) Automobiles shall be rated by measure. The cubic measurements for the five most recent model years will be that prescribed by the manufacturer of the particular make and model as shown on pages to herein.

* * * * *

§ 550.8 [Removed]

4. Section 550.8 is removed and reserved.

PART 580—[AMENDED]

1. The authority citation for part 580 continues to read as follows:

Authority: 5 U.S.C. 553; 46 U.S.C. app. 1702–1705, 1707, 1709, 1710–1712, 1714–1716, 1718, and 1722.

§ 550.12 [Removed]

2. Section 580.12(c) is removed.

By the Commission.

Joseph C. Polking,

Secretary.

[FR Doc. 92–18208 Filed 7–31–92; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 22

[CC Docket No. 90–6; FCC 92–318]

Filing and Processing of Applications for Unserved Areas in the Cellular Service and Modification of Other Cellular Rules

AGENCY: Federal Communications Commission.

ACTION: Final rule; postponement of dates for filing undated system information.

SUMMARY: This Order postpones the dates for filing updated system information by cellular radio licensees and new cellular applications for unserved area applications until future dates to be set by the Chief, Common Carrier Bureau. If this Order were not issued, certain cellular radio licensees would have to submit updated system information by July 16, 1992 and other licensees would have to file such information as well as applications for unserved areas on dates specified by the Commission's rules. This Order postpones all dates for submitting the relevant information and applications until the Chief, Common Carrier Bureau, issues public notices specifying due dates.

DATES: The dates for filing updated system information pursuant to § 22.925 of the Commission's Rules and the Second Report and Order in this docket and the dates for filing unserved area applications pursuant to § 22.6(b)(2) of the Commission's Rules are postponed until the Chief, Common Carrier Bureau, issues public notices setting forth relevant filing dates.

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

FOR FURTHER INFORMATION CONTACT: R. Barthen Gorman, Mobile Services Division, Common Carrier Bureau (202) 632–6450.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Order in CC Docket No. 90–6, adopted July 10, 1992 and released July 10, 1992. The full text of Commission decisions are available for inspection and copying during normal business hours in the FCC Docket 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.

Summary of Report and Order

On July 10, 1992, the Commission adopted an Order, denying the Motion to Postpone Filing of Updated System Information and Applications for Unserved Areas (Motion) filed by the Committee for Effective Cellular Rules (Committee). In its Motion, Committee requested that the dates for the filing of updated system information by existing cellular licensees and the acceptance of applications for new cellular licenses to cover unserved areas in any Metropolitan Statistical Area (MSA) or New England County Metropolitan Area (NECMA) be extended to a date at least 90 days after the Commission disposes of Committee's petitions for reconsideration of the Commission's First Report and Order, 6 FCC 6185 (1991), and Second Report and Order, 7 FCC Rcd 2449 (1992). The Commission found that Committee had not met the requirements for a stay, particularly regarding irreparable injury.

Nevertheless, the Commission on its own motion, postponed the dates for filing updated system information for all licensees, including those who would automatically be required to file such information 60 days before the end of their five-year fill-in period as well as those whose updated system information was due on July 16, 1992. The Commission also postponed the dates for filing unserved area applications until future dates are announced by public notice.

The Commission stated that this action was taken because petitions for reconsideration have asked for clarification of some filing requirements. The Commission determined that it would be administratively efficient to delay the filing of updated system information until it acts on the reconsideration petitions.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 92–18223 Filed 7–31–92; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 92–82; RM–7843]

Radio Broadcasting Services; Eatonville, WA

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Fatima Education Radio Foundation, allots Channel 285A to Eatonville, Washington, as the community's first local aural transmission service. See 57 FR 14555, April 21, 1992. Channel 285A can be allotted to Eatonville in compliance with the Commission's minimum distance separation requirements at the petitioner's requested site without the imposition of a site restriction. The coordinates for Channel 285A at Eatonville are North Latitude 46–52–12 and West Longitude 122–16–06. Since Eatonville is located within 320 kilometers (200 miles) of the U.S.-Canadian border, Canadian concurrence has been obtained. With this action, this proceeding is terminated.

EFFECTIVE DATES: September 8, 1992. The window period for filing applications will open on September 9, 1992, and close on October 9, 1992.

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

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 92–82, adopted July 8, 1992, and released July 24, 1992. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, Downtown Copy Center, (202) 452–1422, 1990 M Street NW., suite 640, Washington, DC 20036.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

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

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

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Washington, is amended by adding Eatonville, Channel 285A.

Federal Communications Commission.

Michael C. Ruger,

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

[FR Doc. 92–18225 Filed 7–31–92; 8:45 am]

BILLING CODE 6712–01–M

47 CFR Part 73

[MM Docket No. 90–403; RM–7279, RM–7283, RM–7572, RM–7573]

Radio Broadcasting Services; Atchison, Horton and Wathena, Kansas

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allots Channel 229C3 to Horton, Kansas, in response to a counterproposal filed by KARE Radio, Inc. in MM Docket 90–403. See 55 FR 36840, September 7, 1990. The coordinates for Channel 229C3 at Horton are 39–37–36 and 95–18–25. There is a site restriction 19.6 kilometers (12.2 miles) east of the community. The petition filed by Lee Brandt proposing the allotment of Channel 229A to Wathena, Kansas, is denied (RM–7572). The petition filed by KARE Radio, Inc. to add Channel 229A to Atchison, Kansas, is denied (RM–7283). The counterproposal filed by Lee Brandt to add Channel 229C3 to Wathena, Kansas, is dismissed (RM–7572). With this action, this proceeding is terminated.

DATES: Effective September 8, 1992. The window period for filing applications for Channel 229C3 at Horton, will open on September 9, 1992, and close on October 9, 1992.

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

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 90–403, adopted July 9, 1992, and released July 24, 1992. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, Downtown Copy Center, 1990 M Street NW., suite 640, Washington 20036, (202) 452–1422.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

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

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

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Kansas, is amended by adding Horton, Channel 229C3.

Federal Communications Commission.

Michael C. Ruger,

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

[FR Doc. 92–18233 Filed 7–31–92; 8:45 am]

BILLING CODE 6712–01–M

OFFICE OF MANAGEMENT AND BUDGET

48 CFR Parts 9903 and 9904

Office of Federal Procurement Policy

Cost Accounting Standards Board; Recodification of Cost Accounting Standards Board Rules and Regulations

AGENCY: Cost Accounting Standards Board, Office of Federal Procurement Policy, OMB.

ACTION: Correction to final rule.

SUMMARY: On April 17, 1992, the Office of Federal Procurement Policy, Cost Accounting Standards Board, recodified at 48 CFR chapter 99 (57 FR 14148), the Cost Accounting Standards Rules and Regulations previously codified at both 48 CFR part 30, and 4 CFR parts 331 through 420. This document contains corrections to the final rule.

EFFECTIVE DATE: April 17, 1992.

FOR FURTHER INFORMATION CONTACT: Richard C. Loeb, Executive Secretary, Cost Accounting Standards Board (telephone: 202–395–3254).

SUPPLEMENTARY INFORMATION:

Background

Section 5 of Public Law 100–679, the Office of Federal Procurement Policy Act Amendments of 1988, 41 U.S.C. 422, established a Cost Accounting Standards Board (CASB) within the Office of Federal Procurement Policy. On April 17, 1992, the CASB recodified, into a single set of uniform regulations, those Cost Accounting Standards that are applicable to covered Government contracts and subcontracts. See 57 FR 14148.

Need for Correction

As published, the final regulation contains errors which may prove to be misleading.

Correction of Publication

Accordingly, the publication of the final rule on April 17, 1992 (57 FR 14148) is corrected as follows:

PART 9900—[AMENDED]

1. On page 14152, in the third column, in the table of contents, the entry for

section 9904.403–62, is corrected to read as follows:

9904.403–62 Exemption. [Reserved]

9903.201–3 Solicitation provisions.

2. On page 14154, in the third column, in section 9903.201–3(d), the heading for Cost Accounting Standards Notices and Certification, is corrected to read as follows:

Cost Accounting Standards Notices and Certification (Apr 1992)

9903.201–4 Contract clauses.

3. On page 14155, in third column, in § 9903.201–4(a), the heading of the clause is corrected to read as follows:

Cost Accounting Standards (Apr 1992)

4. On page 14156, in the second column, in § 9903.201–4(c), the heading of the clause is corrected to read as follows:

Disclosure and Consistency of Cost Accounting Practices (Apr 1992)

5. On page 14156, in the third column, in § 9903.201–4(d), the heading of the clause is corrected to read as follows:

Consistency in Cost Accounting Practices (Apr 1992)

9903.202–9 Illustration of Disclosure Statement Form, CASB DS–1.

6. On page 14159, in § 9903.302–9, a new index page for CASB DS–2 is illustrated below:

BILLING CODE 3110–01–M

COST ACCOUNTING STANDARDS BOARD DISCLOSURE STATEMENT REQUIRED BY PUBLIC LAW 100-679	INDEX

FORM CASB DS-1 (REV 3/92)

BILLING CODE 3110-01-C

9904.403–62 Exemption. [Reserved]

7. On page 14191, in the first column, the text of § 9904.403–62 is removed and the section is reserved.

9904.410 [Corrected]

The following corrections are made to appendix A to § 9904.410:

8. On page 14209, first chart, regarding Business Unit N's allocation of the G&A expense pool, item 1., G.&A. expense pool, Cost of sales rate, Year 1979, the figure "375/2,500=.15" is corrected to read "375/2,500=.150".

9. On page 14209, first chart, regarding Business Unit N's allocation of the G&A expense pool, item 3., introductory line, is corrected to read "3. Inventory suspense account [1]".

10. On page 14209, first column, section 2.B., item (1), line 7, is corrected to read as follows: "Adjustment to G.&A. expense applicable to contracts subject to the".

11. On page 14209, first column, section 2.B., item (2), line 4, the word "claus" is corrected to read "clause".

12. On page 14209, first column, section 2.B., item (2), line 5, the figure "175.890" is corrected to read "175,890".

9904.414 [Corrected]

The following corrections are made to Appendix B to section 9904.414:

13. On page 14222, following Table IV, second line of text, the word "authorization" is corrected to read "amortization".

14. On page 14223, Table VII, second column, heading should read as follows: "Fixed-price CAS-covered contract".

9904.417–60 Illustrations.

15. On page 14236, second column, line 33 of section 9904.417–60(a), the figure "$17,448", is corrected to read "$17,558".

Allan V. Burman,

Administrator for Federal Procurement Policy and Chairman, Cost Accounting Standards Board.

[FR Doc. 92–17925 Filed 7–31–92; 8:45 am]

BILLING CODE 3110–01–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 215

[Docket No. 950526–2185]

Marine Mammals; Subsistence Taking of Northern Fur Seals

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

ACTION: Final harvest estimates for subsistence fur seal harvest on the Pribilof Islands.

SUMMARY: Regulations governing the subsistence taking of northern fur seals require NMFS to publish a summary of the previous year's fur seal harvest and a projection of the number of seals expected to be taken in the current year to meet the subsistence needs of the Aleut residents of the Pribilof Islands, Alaska. NMFS published that notice on May 28, 1992 (57 FR 22450). Following a 30-day public comment period, NMFS is publishing this final notice of the expected harvest levels for 1992 as follows: St. Paul Island: 1,645–2,000; St. George Island: 281–500.

EFFECTIVE DATES: The final notice of subsistence need estimates is effective upon July 29, 1992.

ADDRESSES: Dr. Nancy Foster, Director, Office of Protected Resources (F/PR), 1335 East-West Highway, Silver Spring, MD 20910.

FOR FURTHER INFORMATION CONTACT: Dr. Steve Zimmerman, (907) 586–7235, Mr. Michael Payne, (301) 713–2322, or Dr. Aleta A. Hohn, (301) 713–2289.

SUPPLEMENTARY INFORMATION:

Background

The subsistence harvest of northern fur seals (*Callorhinus ursinus*) on the Pribilof Islands, Alaska, is governed by regulations found in 50 CFR part 215 subpart D—Taking for Subsistence Purposes. These regulations were published under the authority of the Fur Seal Act, 15 U.S.C. 1151 *et seq.*, and the Marine Mammal Protection Act (MMPA) 16 U.S.C. 1316 *et seq.* (at 51 FR 24828, July 9, 1986). The purpose of these regulations is to limit the take of fur seals to a level providing for the legitimate subsistence needs of the Pribilof Aleuts using humane harvesting methods, and to restrict taking by sex, age, and season for herd management purposes.

The purpose of the annual notice is to provide subsistence estimates for the current year's harvest for St. Paul and St. George Islands. The estimates are given as a range, the lower end of which can be exceeded if NMFS is given notice and the Assistant Administrator for Fisheries, NOAA (Assistant Administrator), determines that the subsistence needs of the Pribilof Aleuts have not been satisfied. Conversely, the harvest can be terminated before the lower range of the estimate is reached if it is determined that the subsistence needs of the Pribilof Aleuts have been met or the harvest has been conducted in a wasteful manner.

NMFS published a proposed subsistence harvest estimate (proposed rule) that summarized the 1991 and previous year's harvests and proposed a range of subsistence need estimates for 1992 for the Pribilof Aleuts as follows: St. Paul Island: 1,645–2,000; St. George Island: 281–500 (57 FR 22450, May 28, 1992). Those estimates represented the results of household surveys conducted by the Aleut communities of St. Paul and St. George to estimate minimum subsistence need for the residents of the islands during 1992.

Subsistence Harvest Estimates for 1992

On the basis of the information NMFS has to consider at this time, the lower bound of the estimate of subsistence need on St. Paul Island in 1992 remains at 1,645 (the number of seals actually taken in 1991). If the Aleut residents of St. Paul reach the lower end of this harvest estimate, and have not met their subsistence needs, they may request an additional number of seals up to a harvest total of 2,000. On St. George Island, the lower bound of the estimate of subsistence need in 1992 remains at 281 (the number of seals actually taken in 1991). If the Aleut residents of St. George reach the lower end of this harvest estimate and have not met their subsistence needs, they may request an additional number of seals up to a harvest total of 500 (the upper bound estimated for the 1991 harvest).

From June 30 through August 8 of each year the Pribilovians may harvest up to the lower bound of the applicable estimate. At any time during the harvest season (June 30–August 8), once the lower bound for an island is reached, the harvest for that island must be suspended for no longer than 48 hours pursuant to 50 CFR 215.32(e)(1)(iii). This suspension allows time for an investigation to determine if the subsistence needs of the island residents have been met and the harvest has been conducted in a non-wasteful manner. Information relevant to this investigation will include information submitted by a representative of the island community in question and other available harvest data.

The Assistant Administrator expects that if the residents of St. Paul or St. George believe that their subsistence needs are not fulfilled, they will submit in writing, for consideration during the investigation, any information they have which they believe indicates that their subsistence needs are unfulfilled. This will include written documentation of any house-to-house survey which may have been taken, just a summary of survey results will not be sufficient. In

submitting any such information, the island representatives should take reasonable steps to protect the privacy of the Island's residents. If the Pribilof Aleuts substantiate an additional need for seals and there has been no indication of waste, the Assistant Administrator may authorize the take of additional seals up to the number required for subsistence purposes. The information should be submitted as quickly as possible after a request has been made for an additional number of seals, in order to assure that the required harvest suspension lasts no longer than 48 hours.

Obviously, if the Island's representatives elect to conduct household surveys to assess remaining subsistence need and the results from these surveys are to be submitted in writing to support a finding that more seals are needed, the managers of the harvest on each island will need to plan ahead and keep an accurate count of the number of requests they receive for seal meat. NMFS doesn't believe that this will burden the managers.

If additional information is not submitted by the Pribilof Aleuts, the Assistant Administrator will consider only the information in the record at the time of the suspension. It is very likely, under these circumstances, that the revised subsistence estimate will not exceed the lower end of the original estimate. If that is the case, no additional takings would be authorized.

Discussion

Traditionally, Aleut nutritional requirements for fur seal meat were met from animals taken in the commercial harvest when far more seals were killed than were needed for subsistence purposes. As a result, it was possible for subsistence needs to be filled using only the most prized parts of the seals. When the commercial fur seal harvest on the Pribilof Islands was phased out in 1984, little was known of the amount of seal meat or the number of seals needed to meet the dietary requirements of the Pribilof Aleuts, especially if, instead of taking only prized parts, additional parts of the animals were taken so that each animal was more fully utilized.

Regulations drafted to govern the subsistence harvest of fur seals specified that seals could be taken if the taking is "(a) For subsistence uses, and (b) Not accomplished in a wasteful manner" (50 CFR 215.31). The regulations require that the following specified set of "parts" be taken from the seals: "all hearts, livers, flippers, breasts, shoulders, and other readily utilizable tissues and organs, a limited number of backbones, and some, but not necessarily all, rib sections" (51 FR 24832, July 9, 1986). This list was compiled from information provided by the Pribilof Aleuts when the regulations were being drafted and was re-affirmed by the Pribilof Aleuts at a workshop held to review the management regime for this subsistence harvest (Workshop) held November 5, 1991, in Anchorage. The regulations further require NMFS representatives to monitor the harvest each day and collect information on the number of seals taken and "the extent of utilization of the fur seals taken," the latter for use as an indicator of whether waste is occurring. Since 1985, information has been compiled on the subsistence harvest and removal of seal parts on St. Paul Island (summary at 57 FR 22450, May 28, 1992). Comparable information is not available for St. George Island, where less than 15 percent of the total number of fur seals harvested for Pribilof subsistence have been taken.

The principle standard for determining whether or not the harvest is being conducted in a wasteful manner is based upon the parts taken from the fur seal during butchering. The primary method used for monitoring compliance with this standard has been through direct observation by NMFS employees. A secondary method for monitoring compliance with this standard has been the calculation of the "percent-use" of a sample of harvested fur seals. Percent-use is the average percentage of meat and bone removed from the carcass, by weight, and may indirectly provide information on whether the required parts had been removed.

At the first subsistence harvests, in 1985 and 1986, NMFS representatives determined the approximate average percentage of each seal carcass taken for human consumption (Zimmerman and Letcher 1986). These studies indicated that, on average, the maximum percentage of a fur seal that potentially could be used for food is approximately 53.3 percent; this includes parts not traditionally eaten by the Pribilof Aleuts. The same studies showed that when fur seals are butchered in such a way that only the most prized portions are taken, about 30 percent of the carcass is used. Close to maximum percentage is taken when the seal is butchered using a technique called the whole cut; the lesser amount, approximating removal of only the prized portions, is taken with a technique called the butterfly cut. Less desirable portions of the seal carcass, including some bones, removed in whole cuts are not removed in butterfly cuts.

The dependence on percent-use as an indicator of waste has been controversial. If measures of percent-use are accurate and precise, represent removal of the required edible portions of the seals as defined in the regulations, and reflect the use of the parts taken rather than simply the removal of parts from the beach, then percent-use may provide an objective means of monitoring compliance with the requirement of a non-wasteful harvest. Potential inadequacies and difficulties associated with using percent-use as a standard for determining waste, however, were addressed at the Workshop. Workshop participants discussed numerous factors that might be responsible for the variability observed in percent-use, given that specific body parts are required to be taken. For example, field conditions may make it difficult to record percent-use accurately. In addition, there may be variation from animal to animal that would affect the percent-use results even if the same butchering techniques are used and the same parts taken from all animals sampled. NMFS has acknowledged (56 FR 36737, August 1, 1991) that the current measurements of percent-use should be examined to determine whether or not percent-use values actually indicate "waste" in the subsistence harvest. A study to address some of these uncertainties will be conducted during the 1992 harvest.

It was also determined at the Workshop that the existing percent-use data need to be analyzed to determine within- and between-year variation. Accordingly, NMFS has conducted a preliminary examination of the percent-use values taken from a systematic sample of northern fur seals harvested between 1986 and 1981 to determine trends in percent-use and to determine causes for the observed differences in percent-use values during each year of the harvest, specifically with regard to changes in the relative numbers of seals taken by butterfly and whole cuts. During the 1991 harvest, the type of cut was recorded along with the percent-use data. For previous years, the type of cut was not recorded and so has been inferred from the 1992 results.

The distribution of percent-use values from the samples of seals harvested between 1986 and 1991 on St. Paul Island is bimodal (from sampling data collected by NMFS during the harvest). The bimodal distribution reflects the two types of butchering techniques, whole and butterfly cuts, used in the harvest during each year. For 1991, when the type of cut was recorded, butterfly cuts removed 15 to 48 percent of the total weight of the animal

(average = 34 percent), and whole cuts removed between 37 and 64 percent of the meat (average = 54 percent). There was little overlap in the distribution of percent-use between the two types of cuts and a breakpoint between distributions occurred at about 45 percent. On the basis of these results, the data from 1985–1990 were stratified such that if use was ≤45 percent, that value was assigned to the butterfly cut stratum and if use was > 45 percent, that value was assigned to the whole cut stratum.

The data show that there has been a statistically significant decrease in the average, annual percent-use between 1986 and 1991 (Table 1) that can be attributed to an increased use of the butterfly cut. From 1986–1988, the butterfly cut was used from 39 to 56 percent of the time (Table 2). During the most recent 3 years of the subsistence harvest (1989–1991), the butterfly cut was used from 69 to 75 percent of the time (Table 2). The average annual percent-use values from using the butterfly cut ranged from 30.6 to 33.9 percent, close to the level that indicates that only preferred parts are being taken (30 percent, Zimmerman and Letcher 1986). The average annual recovery using whole cuts ranged from 53.4 to 56.2 percent.

The data also indicate a number of other trends. For one, there has been a small, but marginally significant ($p = 0.13$), increase in percent-use for seals harvested with the butterfly cut, from a low of 30.6 in 1987, to a high of 33.9 in 1991. In 1991, of the animals sampled for weights, 9.4 percent of those taken with the butterfly cut had a percent-use < 30. The values were similar in 1989 and 1990 (8.8 and 8.7 percent, respectively) but much higher in 1986 through 1988 (18.2, 25.4, and 20.7, respectively).

TABLE 1.—AVERAGE ANNUAL PERCENT-USE OF FUR SEALS DURING THE SUBSISTENCE HARVEST. A PERCENT-USE OF ≤45 INDICATES A BUTTERFLY CUT AND USE > 45 INDICATES A WHOLE CUT

Year	Percent-use category		Combined average
	≤45%	>45%	
1986	31.9	56.2	46.8
1987	30.6	53.4	40.7
1988	32.1	53.7	43.4
1989	32.5	53.7	37.9
1990	33.8	53.5	39.8
1991	33.9	54.1	40.1

TABLE 2.—THE NUMBER OF FUR SEALS SAMPLED ANNUALLY FOR WEIGHTS DURING THE SUBSISTENCE HARVEST, STRATIFIED BY A PERCENT-USE OF ≤45 AND >45 (BUTTERFLY AND WHOLE CUTS, RESPECTIVELY). "PERCENT" IS THE WITHIN-YEAR PERCENTAGE OF SEALS TAKEN BY EACH METHOD

Year	Percent-use category				
	≤45%		>45%		
	Number	Percent	Number	Percent	Total
1986	45	39	71	61	116
1987	131	56	104	44	235
1988	67	48	73	52	140
1989	112	75	38	25	150
1990	136	70	59	30	195
1991	223	69	98	31	321

NMFS recognizes that the failure to take certain parts from an individual animal may occur. When it does, use of the seal will be less than the minimum required as measured both in parts taken and percent recovery. These circumstances are expected to be rare and may occur, for example, when the seal is diseased or the meat is contaminated from bile or other internal fluids. During the 1992 harvest, the NMFS observer will record when and under what conditions < 30 percent of a seal is taken.

NMFS has and continues to encourage the highest possible utilization of fur seals and has expressed concern when the percent-use has fallen below certain levels. Despite the possible problems with percent-use as an indicator of waste, it is one method of monitoring used to help determine whether the harvest is being conducted in a wasteful manner. NMFS will continue to subsample the harvested seals to measure percent-use during the 1992 harvest. In addition, a study will be conducted during the 1992 harvest to attempt to better define the weights of usable parts of the seals. The Pribilof Aleuts are cooperating in the conduct of this study.

NMFS intends to continue to monitor the entire harvest on St. Paul and a portion of the harvest on St. George. NMFS reiterates that it expects the use of harvested animals to be non-wasteful and will continue its supervision and monitoring program during 1992.

As noted in the proposed rule, NMFS recently received a letter from the Bering Strait Economic Council (the Council) about the proposed use of fur seal skins from the subsistence harvest on the Pribilofs for the making of native Alaskan handicrafts. In that letter, the Council stated that it was working with the Shishmaref Tannery (operated by the Shishmaref Traditional Council) and the TDX corporation on St. Paul "to find a way that the IRA Councils of both entities would utilize the seal skins from the subsistence seal catch of the St. Paul Island each year." NMFS stresses that the estimated harvest levels must be based upon subsistence need and not be commercially motivated.

NMFS acknowledges that a more accurate method to determine the subsistence needs of the Pribilof Aleuts should be developed (56 FR 36735, Aug. 1, 1991). In addition to having conducted the workshop on the present fur seal management regime, NMFS will undertake a study of the subsistence

needs on the Pribilof Islands following the 1992 harvest.

Response to Comments

Comments and/or discussion received during the 30-day public comment period focused primarily on the following issues: Whether past harvests have been conducted in a "wasteful" manner; the method used for determining the subsistence needs of the Pribilof Aleuts in past years; the 48-hour harvest suspension; the proposed number of seals required for subsistence needs in 1992; heat stress in fur seals during the harvest; the proper disposition of bacula; and the commercial use of fur seal skins taken during the subsistence harvest.

Efficient Versus "Wasteful" Use

The issue of whether past harvests have been conducted in a "wasteful" manner was one of the most contentious points in the proposed estimates of subsistence need in 1992, as it was in 1991 (56 FR 36735, Aug. 1, 1991). One commenter indicated that the present method of determining "percent-use" from each carcass does not represent any indication of actual percent-use by the Pribilof community, but rather represents the average percentage of animals that are removed from the harvest fields, or "percent-recovery." The actual use of each seal by each household is not reflected in the current monitoring practices. The commenter endorsed a study that would distinguish between percent-use and percent-recovery to determine the amount of each fur seal actually consumed.

Another commenter maintained that NMFS has failed to ensure that the harvest be conducted in a non-wasteful manner. The center of the issue focused on whether or not the butterfly cut is considered a "wasteful" technique, as interpreted in the regulations. The relevant statutory mandate at 16 U.S.C. 1371(b)(3), and the regulations at 50 CFR 215.2, prohibit "taking of fur seals beyond those needed for subsistence uses or which results in the waste of a substantial portion of the fur seal". NMFS utilizes a parts-based standard for evaluating waste, and considers the removal and consumption of "all hearts, livers, flippers, breasts, shoulders and other readily utilizable tissues and organs, a limited number of backbones, and some, but not necessarily all, rib sections" to be necessary to comply with the requirement that the taking of seals not be accomplished in a wasteful manner (51 FR 24832, July 9, 1986). Some commenters argue that the requirement to take "a limited number of backbones, and some, but not necessarily all, rib sections" applies to every animal harvested, and that the butterfly butchering technique is wasteful. NMFS does not take the position that this requirement applies to individual animals harvested. NMFS recognizes that conditions and circumstances may vary depending on the animal harvested and other factors. However, NMFS also feels that the failure to take the required parts from individual animals should be explained and if the percent removed from an individual seal falls below certain levels that fact should be accounted for. The NMFS observer will monitor when and under what conditions less than 30 percent of an individual animal is taken. At this time, NMFS believes that a harvest that utilizes whole cuts for some seals and butterfly butchering techniques for other animals can satisfy the parts utilization standard. NMFS does not agree that the butterfly technique must be eliminated.

Commenters from the Pribilofs have continually maintained that no waste is occurring, and that they take only what they need throughout the year. Animals killed on St. George Island are generally taken as whole cuts due to a community "sharing" approach and the existence of a freezer that has the capability to handle the larger cuts. On St. Paul Island, community freezers have not been used recently.

Several commenters noted that they appreciate that the preference for butterfly cuts is a carry-over from the commercial harvest when the large number of animals taken allowed the Pribilof Aleuts to take only the most prized portions from each animal for subsistence. According to those commenters, with the cessation of the commercial harvest, this practice should no longer be employed because the animals are taken for subsistence use only and, therefore, are to be more fully utilized.

One commenter suggested that NMFS should make an effort to record data more precisely during future harvests, especially those animals whose percent-use value is considered low, to determine the cause of the variability in the data. During 1992, NMFS will continue to estimate percent-use by weighing carcasses. NMFS has calculated that the sample sizes necessary to have a 90-percent probability that the 95-percent confidence intervals around the mean percent-use values will be no greater than 2 percent, based on the variances associated with the 1991 samples, are 120 seals harvested using the butterfly cut, and 115 seals harvested using the whole cut technique. However, since NMFS observers do not know which cut a sample animal will receive when it is selected, NMFS will try to sample systematically 20 percent of the animals harvested.

NMFS has determined that an important aspect of this year's harvest monitoring should be to determine how much more edible meat is taken from a fur seal using the butterfly technique versus the whole cut. The whole cut includes bones and parts that contain very little meat (i.e., back bones) and may, therefore, provide only a small increase in edible parts. NMFS will measure the edible parts being taken in a whole cut to determine whether there is a significant difference in the amount of meat taken (minus the bones) between the two butchering techniques.

Close attention will also be paid to identifying body weight values (measurements taken in the field) that appear anomalous. However, it is important to realize that since percent-use cannot be calculated in the field, NMFS again may have some percent-use values that are not fully explainable. NMFS will document when at least a complete butterfly cut is not removed, and why. NMFS oversees the harvest on St. Paul Island to ensure that the mandated parts of the animals are harvested, and reiterates that the harvest must be conducted in a non-wasteful manner.

Commenters from the Pribilof Island communities extended to the Humane Society of the United States (HSUS) an invitation to observe the harvest and the use of the butchering techniques to demonstrate their efficiency. Commenters from the Pribilof Islands have also invited others to witness the harvest, to show interested parties that the seals are being harvested in a non-wasteful manner. HSUS has accepted the offer and will send an observer to the harvest.

Method for Setting Harvest Levels

NMFS acknowledged that a method of determining subsistence more accurately needs to be developed (56 FR 36737, Aug. 1, 1991). During 1991, NMFS used the previous year's harvest levels as a baseline estimate of need, which could be adjusted, provided that substantiated evidence of increased or decreased subsistence need was provided. The 1992 harvest estimate was based on the previous year's harvest level, and the results of a household survey conducted on each of the Pribilof Islands (57 FR 22450, May 28, 1992). One commenter has suggested that the estimates for 1991 and 1992 are unreasonably high, and that NMFS did

not substantiate the increased level of take during 1991 when the number of seals harvested on St. Paul Island increased to 1,645 from 1,077 in 1990. The commenter continued by stating that 1992 is the only year in which NMFS has unquestionably applied the previous year's harvest level (a level considered unsubstantiated by the commenter) as the subsistence estimate for the following year.

However, NMFS did not unquestionably apply the 1991 harvest level as the estimate of subsistence need for 1992. As discussed at the November 5, 1991, workshop on fur seal management, a household survey to determine the number of seals needed in 1992 was conducted by the Traditional Council on each island. The documentation of these surveys was used to estimate the number of seals required to meet the subsistence needs of the Pribilof Aleuts. Comments received from representatives of the Pribilof Island communities indicated that all of the meat taken in 1991 was consumed. They re-emphasize their statement that there has been no waste of fur seals during the harvests.

Harvest Technique

A commenter from the Pribilofs explained the process that each of the harvests in recent years has followed. The 1992 harvest will proceed in a manner comparable to the past few seasons. Harvests on St. George Island are generally conducted by volunteers after working hours, on non-working weekdays, or on weekends to accommodate the employment schedules of families that participate in the harvests. On St. Paul Island, harvests are usually conducted by volunteers during weekday morning hours to fill orders for people who are not present at the harvest.

48-Hour Suspension

One commenter was concerned that the harvest suspension required by the regulations would operate to the detriment of the Pribilof Aleuts. The regulations, at 50 CFR 215.32(e)(1)(iii), require a harvest to be suspended if the lower end of the range of harvest estimates is reached. The suspension is to last for no longer than 48 hours, during which time the Assistant Administrator re-evaluates the Aleuts' subsistence needs to determine if they have been satisfied. If the Assistant Administrator determines that subsistence needs have been met, then the taking of additional animals will be prohibited.

The commenter felt that the Federal Register notice announcing the proposed harvest estimates for 1992 misconstrued the language of these regulations. The commenter stated that the notice inappropriately placed an affirmative burden on the Pribilof Aleuts to prove that they have unsatisfied subsistence needs. According to the commenter, the Assistant Administrator must prove that no additional subsistence need exists, or the harvest automatically resumes after the 48-hour suspension period lapses.

NMFS acknowledges these comments, and will clarify its position regarding this issue. If the lower end of the harvest estimate is reached, the 48-hour suspension will ensue. At that time, the Assistant Administrator will review all harvest data and other relevant information available to him in order to determine whether subsistent needs have been met. It is the responsibility of the Pribilof Aleuts to provide the Assistant Administrator with any information they feel is relevant to this determination. If they provide no information demonstrating continued need, the Assistant Administrator may decide subsistence needs have been satisfied, and prohibit further harvest.

Heat Stress in Fur Seals

One commenter expressed concern that dates and times for the harvest are not chosen in a manner that protects seals from heat stress. The commenter pointed to data from the 1990 and 1991 harvests that indicate that seals suffered from heat stress on some harvest days. The commenter stated that harvests should be scheduled either early in the morning or late in the evening to minimize heat stress, and that harvest practices and techniques must be controlled for the same reason.

NMFS agrees with these comments, but also acknowledges that the Pribilof Aleuts can only harvest seals when volunteers are available; therefore, it is not always possible to conduct a harvest session early in the morning. NMFS employs a veterinary pathologist as a humane observer during all harvest activities. The humane observer carefully monitors seals for signs of heat stress, including checking the rectal temperatures of the seals taken. If signs of heat stress develop, every effort is made to either stop the herding procedures, or to move on to a different group of animals. Routine monitoring practices conducted during 1991 to ensure the "humaneness" of the harvest have been described in detail (56 FR 36735, Aug. 1, 1991). These practices will continue through the 1992 harvest.

Trade in Bacula

One commenter expressed concern over the potential for illegal trade in seal penis bones (bacula). The commenter is dissatisfied with NMFS investigation into the presence of foreign businessmen on the island during the 1988 and 1989 harvests, and NMFS methods of monitoring proper disposition of bacula. The commenter believes that harvesters should be required to remove all bacula from harvested seals, and turn them over to NMFS for disposal.

NMFS feels that such a requirement is burdensome and unnecessary. NMFS will continue to monitor the proper disposition of bacula and will take appropriate action, if necessary.

Commerce in Seal Skins

One final comment concerned the proposed use of fur seal skins from the subsistence harvest on the Pribilof Islands for the making of native Alaskan handicrafts. Representatives from the Pribilof Islands have stated that it is possible that some of the skins might be shipped from the island for use in making handicrafts. However, they have also stated that it is their intent to send some of the Pribilof community to a tannery to learn the techniques necessary for making handicrafts from the skins, then have some of the handicrafts made on the island.

NMFS notes that the estimated harvest levels must be based upon subsistence need, and not on commercial interests.

References

Zimmerman, S.T. and J.D. Letcher. 1986. The 1985 subsistence harvest of northern fur seals, *Callorhinus ursinus*, on St. Paul Island, Alaska. Mar. Fish. Rev. 48:10–14.

Dated: July 28, 1992.

Samuel W. McKeen,

Program Management Officer.

[FR Doc. 92–18306 Filed 7–29–92; 3:56 pm]

BILLING CODE 3510–22–M

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50 CFR Part 661

[Docket No. 920412–2112

Ocean Salmon Fisheries Off the Coasts of Washington, Oregon, and California

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

ACTION: Inseason adjustments.

SUMMARY: NMFS announces that the commercial fishery from the U.S.-Canada border to Cape Falcon, Oregon, will open for 3 days on July 25–27, 1992, with a possession and landing limit of 44 coho salmon for the open period. The Director, Northwest Region, NMFS

(Regional Director), has determined that, following this fisher's first open period on July 20–21, 1992, the annual harvest guideline of 18,100 coho salmon for this fishery would be attained during a 3-day period with an adjusted possession and landing limit for coho salmon. These adjustments are intended to minimize disruption to commercial fishery without exceeding the ocean share allocated to the commercial Fishers in this subarea.

DATES: Effective at 0001 hours local time, July 25, 1992, through 2400 hours local time, July 27, 1992. Actual notice to affected fishermen was given prior to that time through a special telephone hotline and U.S. Coast Guard Notice to Mariners broadcasts as provided by 50 CFR 661.23. Comments will be accepted through August 17, 1992.

ADDRESSES: Comments may be mailed to Rolland A. Schmitten, Director, Northwest Region, National Marine Fisheries Service, NOAA, 7600 Sand Point Way NW., BIN C15700–Bldg. 1, Seattle, WA 98115–0070. Information relevant to this notice has been compiled in aggregate form and is available for public review during business hours at the office of the NMFS Northwest Regional Director.

FOR FURTHER INFORMATION CONTACT: William L. Robinson at (206) 526–6140.

SUPPLEMENTARY INFORMATION: In its emergency interim rule and notice of 1992 management measures (57 FR 19388, May 6, 1992), NMFS announced that the 1992 commercial fishery between the U.S.-Canada border and Cape Falcon, Oregon, would open July 20 and continue through the earliest of August 31 or attainment of harvest quidelines of either 18,100 coho salmon or 4,400 chinook salmon. Preseason restrictions included a cycle of 2 days open and 3 days closed, a possession and landing limit of 30 coho salmon per opening, and gear limited to 6–inch plugs or larger and no more than 4 spreads per line.

Based on the best available information as of July 23, the coho salmon harvest guideline of 18,100 coho is projected to be reached for the subarea from the U.S.-Canada border to Cape Falcon. The commercial catch in the subarea, during the first open period of July 20–21, totaled about 4,500 coho salmon. The remainder of the coho salmon harvest guideline is projected to be harvested during a 3–day fishing period with an appropriate adjustment to the possession and landing limit. By providing an open period of 3 days, disruption to the commercial fishery is minimized. The fishery would otherwise harvest the remaining coho salmon during two open periods of 2 days or less. Therefore, the commercial fishery in the subarea from the U.S.-Canada border to Cape Falcon will open for 3 days, effective 0001 hours local time, July 25, through 2400 hours local time, July 27, 1992. Each vessel may possess, land and deliver not more than 44 coho salmon for this open period. Modifications of fishing seasons and limited retention regulations are authorized by regulations at § 661.21(b)(1) (i) and (ii). All other restrictions that apply to this fishery remain in effect as announced in this notice of 1992 management measures (57 FR 19388).

Following this 3-day open period, the commercial fishery in this subarea is closed for 3 days in accordance with the preseason regulations. During this closed period, catches will be evaluated to determine if sufficient fish remain to reopen this fishery on July 31, and August 1, as scheduled.

In accordance with the inseason notice procedures of 50 CFR 661.23, actual notice to fishermen of this action was given prior to 0001 hours local time, July 25, 1992 by telephone hotline number (206) 526–6667 or (800) 662–9825 and by U.S. Coast Guard Notice to Mariners broadcasts on Channel 16 VHF–FM and 2182 KHz.

The Regional Director consulted with representatives of the Pacific Fishery Management Council, the Washington Department of Fisheries, and the Oregon Department of Fish and Wildlife regarding these adjustments affecting the commercial fishery between the U.S.-Canada border and Cape Falcon. The States of Washington and Oregon will manage the commercial fishery in State waters adjacent to this area of the exclusive economic zone in accordance with this Federal action. This notice does not apply to treaty Indian fisheries or to other fisheries that may be operating in other areas.

Because of the need for immediate action, the Secretary of Commerce has determined that good cause exists for this notice to be issued without affording a prior opportunity for public comment. Therefore, public comments on this notice will be accepted through August 18, 1992.

Other Matters

This action is authorized by 50 CFR 661.23 and is in compliance with Executive Order 12291.

List of Subjects in 50 CFR Part 661

Fisheries, Fishing, Indians, Reporting and recordkeeping requirements.

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

Dated: July 28, 1992.

Joe P. Clem,

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

[FR Doc. 92–18232 Filed 7–31–92; 8:45 am]

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Proposed Rules

Federal Register
Vol. 57, No. 149
Monday, August 3, 1992

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

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

7 CFR Part 1413

RIN 0560-AC54

1993 Feed Grain Program, Acreage Reduction

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule would amend the regulations to set forth the acreage reduction percentage for each of the 1993 feed grain crops. This action is required by section 105B of the Agricultural Act of 1949, as amended (the 1949 Act).

DATES: Comments must be received on or before September 17, 1992 in order to be assured of consideration.

ADDRESSES: Comments must be mailed to Dean Ethridge, Deputy Administrator, Policy Analysis, Agricultural Stabilization and Conservation Service (ASCS), U.S. Department of Agriculture (USDA), P.O. Box 2415, room 3090-S, Washington, DC 20013.

FOR FURTHER INFORMATION CONTACT: Philip W. Sronce, Director, Grains Analysis Division, USDA/ASCS, room 3742-S, P.O. Box 2415, Washington, DC 20013 or call 202-720-4417.

SUPPLEMENTARY INFORMATION: This rule has been reviewed under USDA procedures established in accordance with provisions of Departmental Regulation 1512-1 and Executive Order 12291 and has been classified as "major." It has been determined that an annual effect on the economy of $100 million or more may result from implementation of the provisions of this proposed rule.

It has been determined that the Regulatory Flexibility Act is applicable to this proposed rule since the Commodity Credit Corporation is required by section 105B(o) of the 1949 Act to request comments with respect to the subject matter of this rule. A Preliminary Regulatory Impact Analysis was prepared, which determined that this regulation will have no significant impact on a substantial number of small entities because the particular acreage reduction percentages considered will not affect the paperwork, reporting, or compliance burdens of the small entities in the program. The Commodity Credit Corporation thus certifies that the rule will have no significant economic impact on a substantial number of small entities. The Preliminary Regulatory Impact Analysis describing the options considered in developing this proposed rule and the impact of the implementation of each option is available on request from the above-named individual.

It has been determined by an environmental evaluation that this action will not have a significant impact on the quality of the human environment. Therefore, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

The title and number of the Federal Assistance Program, as found in the catalog of Federal Domestic Assistance, to which this rule applies are: Feed Grain Production Stabilization—10.055.

This proposed rule has been reviewed in accordance with Executive Order 12778. The provisions of this proposed rule do not preempt State laws; are not retroactive; and do not require the exhaustion of any administrative appeal remedies.

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

The amendments to 7 CFR part 1413 set forth in this proposed rule do not contain information collections that require clearance by the Office of Management and Budget under the provisions of 44 U.S.C. chapter 35.

Comments are requested with respect to this proposed rule and such comments shall be considered in developing the final rule.

Background

In accordance with section 105B of the 1949 Act, an acreage reduction program (ARP) is required to be implemented for the 1993 crops of corn, grain sorghum, or barley if it is determined that the total supply of each respective feed grain would otherwise be excessive.

Land diversion payments also may be made to producers if needed to adjust the total national acreage of feed grains to desirable goals. A paid land diversion program is not considered because, given the allowed ARP percentages, it is not needed.

If an ARP is announced, the reduction shall be achieved by applying a uniform percentage reduction to the respective feed grain acreage base for the farm. In making such a determination, the number of acres placed into the agricultural resources conservation program established under subtitle D of title XII of the Food Security Act of 1985, as amended, must be taken into consideration.

Producers who knowingly produce feed grains in excess of the respective permitted acreage for the farm plus any respective feed grain acreage planted in accordance with the flexibility provisions are ineligible for loans and purchases and all payments with respect to that crop on the farm. If an ARP program for the 1993 crop is in effect, the program must be announced no later than September 30, 1992. Adjustments in the announced program may be made if it is determined that there has been a significant change in the total supply of feed grains since the program was first announced. These adjustments must be made no later than November 15, 1992.

In accordance with section 105B of the 1949 Act, not less than 60 days before the program is announced for a crop of feed grains, proposals for public comment on various program options for the crop of feed grains are required to be set forth. Each option must be accompanied by an analysis that includes the estimated planted acreage, production, domestic and export use, ending stocks, season average producer price, program participation rate, and cost to the Federal Government that would likely result from each option.

In determining the 1993 corn ARP, the Secretary will choose a specific ARP reduction percentage from within a range established by the estimated ending stocks-to-use ratio for the 1992 corn marketing year. If it is estimated that the 1992 ending stocks-to-use ratio in percentage terms (S/U) will be—

(i) More than 25 percent, the ARP shall not be less than 10 percent nor more than 20 percent; or

(ii) Equal to or less than 25 percent, the ARP may not be more than 12.5 percent.

The S/U for the 1992 marketing year is estimated to be 20.8 percent. Based on this estimate, the 1993 ARP may be not more than 12.5 percent. In the case of sorghum and barley, the Secretary may choose a 1993 ARP percentage in the range from 0 to 20 percent. For oats, the 1993 ARP is statutorily mandated not to exceed 0 percent.

Section 1104 of the Agricultural Reconciliation Act of 1990 provides that the acreage reduction factor for the 1993 crops of corn, sorghum, and barley may not be less than 7.5 percent. This provision does not apply if the beginning stocks of soybeans for the 1991 marketing year are less than 325 million bushels or if the estimated corn S/U for the 1992 crop is less than 20 percent. Section 1302 of the Agricultural Reconciliation Act of 1990 also provides that minimum ARP requirements may be waived if an agreement resulting from the General Agreement on Tariffs and Trade (GATT) negotiations is not entered into by June 30, 1992.

Soybean stocks on September 1, 1991, were 329 million bushels, and the estimated S/U for the 192 corn crop is greater than 20 percent. Thus, the minimum 7.5-percent-ARP provision is applicable and an ARP less than 7.5 percentage for corn, sorghum or barley cannot be announced unless minimum ARP levels are waived.

ARP's lower than 7.5 percent for corn, sorghum, and barley will be included as options because: (1) A small change in supply and demand estimates would allow for consideration of an ARP below 7.5 percent and (2) A GATT agreement was not entered into by June 30.

Conversely, the final ARP decision process could consider higher ARP's than those included here. The law permits an ARP of between 10 and 20 percent if the S/U ratio exceeds 25 percent, and such an outcome is possible. The ARP options included in this analysis are the most likely possibilities, based on May 1992 data. If ending stocks increase, due to weaker demand or higher than expected yields, and raise the S/U ratio to 25 percent or higher, ARP levels between 12.5 and 20 percent may be considered before a final decision is made.

The 1993 ARP options considered are shown in Table 1.

TABLE 1.—PROPOSED 1993 FEED GRAIN ARP OPTIONS

Item	Option				
	1 Present budget	2	3	4	5
	Percent				
Corn	7.5	0	5	7.5	12.5
Sorghum	7.5	0	5	0	7.5
Barley	7.5	0	5	0	7.5
Oats	0	0	0	0	0

Two options (1 and 4) will be considered at the same ARP level (7.5 percent) for corn to show the impacts of offering lower ARP percentages for grain sorghum and barley.

For sorghum and barley, ARP percentages higher than 7.5 percent are not considered because expected sorghum and barley S/U's are low compared with historical levels. The 1992 sorghum S/U is forecast at 17.8, with the exception of 1991, the lowest level since 1976 (17.3 percent). The 1992 barley S/U is forecast at 25.6, with the exception of 1991, the lowest level since 1974 (24.7 percent). ARP levels above 7.5 percent would limit supplies of barley and sorghum to the point of not allowing export and domestic needs to be met. However, ARP levels above 7.5 percent will be considered when making the final ARP decision if feed grain supply and demand changes are large enough to warrant their consideration.

The estimated impacts of the ARP options are shown in Tables 2 through 4.

TABLE 2.—CORN SUPPLY AND DEMAND ESTIMATES

Item	1993 Program options				
	1	2	3	4	5
	Percent				
ARP	7.5	0	5	7.5	12.5
Participation	80	90	82	80	75
	Million Acres				
Planted acreage	75.4	78.5	76.7	75.5	73.5
	Million Bushels				
Production	8,250	8,590	8,395	8,265	8,035
Domestic use	6,725	6,790	6,755	6,725	6,660
Exports	1,600	1,625	1,615	1,600	1,575
Ending stocks, 8/31	1,606	1,856	1,706	1,621	1,481

TABLE 2.—CORN SUPPLY AND DEMAND ESTIMATES—Continued

Item	1993 Program options				
	1	2	3	4	5
	Dollars per Bushels				
Season average producer price	2.15	2.05	2.10	2.15	2.25
	Million Dollars				
Deficiency payments	3,515	4,775	3,930	3,515	2,620

TABLE 3.—GRAIN SORGHUM SUPPLY AND DEMAND ESTIMATES

Item	1993 Program options				
	1	2	3	4	5
	Percent				
ARP	7.5	0	5	0	7.5
Participation	75	85	77	85	75
	Million Acres				
Planted acreage	11.9	12.3	12.0	12.2	11.8
	Million Bushels				
Production	700	720	705	715	695
Domestic use	445	450	445	450	445
Exports	255	260	260	255	250
Ending stocks, 8/31	122	132	122	132	122
	Dollars per Bushels				
Season average producer price	2.00	1.90	1.95	2.00	2.10
	Million Dollars				
Deficiency payments	293	392	326	365	248

TABLE 4.—BARLEY SUPPLY AND DEMAND ESTIMATES

Item	1993 Program options				
	1	2	3	4	5
	Percent				
ARP	7.5	0	5	0	7.5
Participation	78	81	79	81	78
	Million Acres				
Planted acreage	8.1	8.5	8.2	8.5	8.1
	Million Bushels				
Production	415	430	420	430	415
Domestic use	355	350	355	355	355
Exports	110	115	110	115	110
Ending stocks, 5/31	100	110	100	105	100
	Dollars per Bushels				
Season average producer price	2.09	2.00	2.06	2.07	2.15
	Million Dollars				
Deficiency payments	142	190	160	169	129

Accordingly, comments are requested as to whether the 1993 acreage reduction percentage for: (1) Corn should be 0, 5, 7.5, or 12.5 percent or any percentage less than 12.5 percent; and (2) Sorghum and barley should be 0, 5, or 7.5 percent or any percentage less than 12.5 percent. the final determination of these percentages will be set forth at 7 CFR part 1413.

List of Subjects in 7 CFR Part 1413

Cotton, Feed grains, Price support programs, Wheat, Rice.

Accordingly, it is proposed that 7 CFR part 1413 be amended as follows:

PART 1413—FEED GRAIN, RICE, UPLAND AND EXTRA LONG STAPLE COTTON, WHEAT AND RELATED PROGRAMS

1. The authority citation for 7 CFR part 1413 continues to read as follows:

Authority: 7 U.S.C. 1308, 1308a, 1309, 1441–2, 1444–2, 1444f, 1445b–3a, 1461–1469; 15 U.S.C. 714b and 714c.

2. Section 1413.54 is amended by revising paragraphs (a)(2) and (d) to read as follows:

§ 1413.54 Acreage reduction program provisions.

(a) * * *

(2)(i) 1991 corn, grain sorghum, and barley, 7.5 percent;

(ii) 1992 corn, grain sorghum, and barley, 5 percent; 1992 oats, 0 percent; and

(iii) 1993 corn, sorghum, and barley shall be no more than 12.5 percent, as determined and announced by CCC; 1993 oats, 0 percent.

* * * * *

(d) Paid land diversion program payments:

(1) Shall not be made available to producers of the 1991 crops of wheat, feed grains, upland and ELS cotton, and rice;

(2) Shall not be made available to producers of the 1992 crops of wheat, feed grains, upland and ELS cotton, and rice; and

(3) Shall not be made available to producers of the 1993 crops of feed grains, as determined and announced by CCC.

* * * * *

Signed this 29th day of July 1992 at Washington, DC

Keith D. Bjerke,

Executive Vice President, Commodity Credit Corporation.

[FR Doc. 92–18339 Filed 7–29–92; 8:45 am]

BILLING CODE 3410–05–M

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Chapter VII

Regulatory Review

AGENCY: National Credit Union Administration.

ACTION: Request for comment.

SUMMARY: The National Credit Union Administration (NCUA) is soliciting public comment on which of the regulations affecting federally insured credit unions impose unnecessary or excessive costs or burdens and what changes can be made to reduce those costs or burdens. This action is being taken in light of the President's request that federal regulatory agencies evaluate existing regulations and identify and accelerate action on initiatives that will eliminate any unnecessary regulatory burden.

DATES: Comments must be received by October 2, 1992.

ADDRESSES: Send comments to Becky Baker, Secretary of the Board, National Credit Union Administration, 1776 G Street, NW., Washington, DC 20456.

FOR FURTHER INFORMATION CONTACT: Hattie Ulan, Associate General Counsel, (202) 682–9630, at the above address.

SUPPLEMENTARY INFORMATION: On January 28, 1992, the President issued a memorandum concerning the burden of government regulation. Although the memorandum does not specifically apply to the NCUA, it is the intention of the NCUA Board to comply with the spirit of the memorandum. The memorandum imposed a 90-day moratorium on most regulatory actions, as well as requested that agencies do a regulatory review of existing regulations for the purpose of revising those which are unnecessary or burdensome. The 90-day moratorium, which would have expired at the end of April, was extended by the President for an additional 120 days.

NCUA has not issued, and does not plan to issue, any proposed or final regulations during the moratorium period, unless such rules would ease regulatory burden or are determined to be essential to the safety and soundness of the credit union system. It should be noted that any regulation subject to a statutory or judicial deadline is not subject to the moratorium (e.g., truth-in-savings rules).

NCUA staff has completed an internal review of the NCUA Regulations for the purpose of recommending changes that would relieve regulatory burden. In furtherance of the President's regulatory review initiative, the NCUA is hereby requesting public comment on those of its regulations which impose unnecessary or excessive costs or burdens on the public, the credit union community, or the economy, and what changes can be made to reduce those costs or burdens. In his memorandum, the President asked that agencies work with the public to (i) identify regulations that impose a substantial cost on the economy and (ii) determine whether each such regulation adheres to the following standards:

(1) The expected benefits to society of any regulation should clearly outweigh the expected costs it imposes on society.

(3) Regulations should be fashioned to maximize net benefits to society.

(3) To the maximum extent possible, regulatory agencies should set performance standards instead of prescriptive command and control requirements, thereby allowing the regulated community to achieve regulatory goals at the lowest possible cost.

(4) Regulations should incorporate market mechanisms to the maximum extent possible.

(5) Regulations should provide clarity and certainty to the regulated community and should be designed to avoid needless litigation.

It is noted that section 221 of the Federal Deposit Insurance Corporation Improvement Act of 1991 (FDICIA) requires the Federal Financial Institutions Examination Council (FFIEC) to conduct a study on regulatory burden with respect to insured depository institutions. This study is to include all laws under the jurisdiction of the various federal banking agencies, as well as all laws affecting insured depository institutions under the jurisdiction of the Secretary of the Treasury (e.g., Regulations B, Z, and CC and the Bank Secrecy Act). Although the NCUA is a member of the FFIEC, neither the NCUA nor credit unions were included in this mandated study on regulatory burden. NCUA does, however, solicit public comment on any of its regulations, as well as any of the additional federal laws and regulations to which credit unions are subject and which are the subject of the FFIEC study. This will facilitate NCUA's participation in the FFIEC's study.

The NCUA requests that commenters: (1) Identify any regulation by name and section number; (2) provide specific explanations, with examples as appropriate, of the reasons why the regulation is unnecessarily costly or burdensome; and (3) provide specific

suggestions or recommendations as to how the regulation may be improved.

By the National Credit Union Administration Board on July 28, 1992.

Becky Baker,

Secretary of the Board.

[FR Doc. 92-18293 Filed 7-31-92; 8:45 am]

BILLING CODE 7535-01-M

12 CFR Part 741

Requirements for Insurance

AGENCY: National Credit Union Administration (NCUA).

ACTION: Proposed rule.

SUMMARY: The NCUA Board is proposing to amend its regulations on requirements for insurance to require federally insured credit unions whose assets exceed $100,000,000 as of March 31, 1992, $50,000,000 as of March 31, 1993, and $20,000,000 as of March 31, 1994, to file with NCUA a quarterly Financial and Statistical Report (the "call report"). All other credit unions will continue to be subject to the current requirement of filing a semiannual call report. The intended effect of this proposed amendment is to provide NCUA with timely and complete financial data from large credit unions.

DATES: Comments must be submitted by October 2, 1992.

ADDRESSES: Send comments to Becky Baker, Secretary of the Board, National Credit Union Administration, 1776 G Street, NW., Washington DC 20456.

FOR FURTHER INFORMATION CONTACT: Michael J. McKenna, Office of General Counsel, at the above address or telephone: (202) 682-9630.

SUPPLEMENTARY INFORMATION:

Discussion

Currently, under § 741.13(a) of the NCUA Regulations, all federally insured credit unions must file with NCUA a semiannual Financial and Statistical Report ("call report"). The NCUA Board is issuing a proposed amendment to § 741.13 to require quarterly reporting, phased in over a three-year period, by credit unions with over $20,000,000 in assets. The current semiannual filing requirement would remain in effect for all other credit unions.

The reason for this amendment is to provide NCUA with timely and complete financial data. The NCUA Board believes the twice-yearly submission of financial and statistical data is too infrequent for large credit unions. NCUA may not become aware of problems that develop quickly until a significant amount of time has passed. In large credit unions, where the potential losses to the share insurance fund are great, more frequent reporting is clearly desirable. Quarterly reporting will enable NCUA to act quickly to prevent financial loss, both to credit union members and the National Credit Union Share Insurance Fund (NCUSIF).

To smooth the transition to quarterly reporting for large credit unions, as well as for NCUA, the NCUA Board is proposing a three-year transition period. Credit unions whose assets exceed $100,000,000 as of March 31, 1992, are already required to file a quarterly call report in accordance with Letter to Credit Unions No. 1 dated January 1992. (Section 741.13(b) of NCUA's Regulations states that "insured credit unions shall, upon written notice from the Board of Regional Director, file such other reports in accordance with instructions contained in such notice.") This proposed rule would incorporate the quarterly requirement contained in that Letter to Credit Unions and expand it to cover additional credit unions. As proposed, credit unions with assets in excess of $50,000,000 as of march 31, 1993, and credit unions with assets in excess of $20,000,000 as of March 31, 1994, would also be required to file a quarterly call report.

Paperwork Reduction Act

The proposed amendment contains a requirement for the collection and submission of additional information by federally insured credit unions with assets over $20,000,000 as of March 31, 1994. The paperwork requirements were submitted to the Office of Management and Budget for approval under the Paperwork Reduction Act. Written comments on these requirements should be forwarded directly to the OMB Desk Officer at the following address: OMB Reports Management Branch, New Executive Office Building, room 3208, Washington, DC 20530, Attn: Gary Waxman.

Regulatory Flexibility Act

The Regulatory Flexibility Act requires the NCUA to prepare an analysis to describe any significant economic impact any regulation may have on a substantial number of small credit unions (Primarily those under $1 million in assets). The proposed amendment only affects credit unions whose assets exceed $20,000,000. Accordingly, the Board determines and certifies that this proposed amendment does not have a significant economic impact on a substantial number of small credit unions and that a Regulatory Flexibility Analysis is not required.

Executive Order 12612

Executive Order 12612 requires NCUA to consider the effect of its actions on state interests. This proposed amendment will enable NCUA and the NCUSIF to have sufficient information to ensure the safety and soundness of federally insured credit unions. The NCUA board believes that the protection of the NCUSIF warrants this increased reporting by large credit unions and that the increased reporting required will not unduly burden federally insured state-chartered credit unions. The NCUA Board, pursuant to Executive Order 12612, has determined that this proposed amendment may have an occasional direct effect on the states, on the relationship between the states, or on the distribution of power and responsibilities among the various levels of government.

List of Subjects in 12 CFR Part 741

Bank deposit insurance, Credit unions, Reporting and recordkeeping requirements.

By the National Credit Union Administration Board on July 28, 1992.

Becky Baker,

Secretary of the Board.

Accordingly, NCUA amends 12 CFR chapter VII as follows:

PART 741—REQUIREMENTS FOR INSURANCE

1. The authority citation for part 741 continues to read as follows:

Authority: 12 U.S.C. 1757, 1766(a), and 1781 through 1790; Public Law 101-73.

2. Section 741.13(a) is revised to read as follows:

§ 741.13 Financial and statistical and other reports.

(a)(1) Each operating insured credit union, with assets in excess of $100,000,000 as of March 31, 1992, $50,000,000 as of March 31, 1993, and $20,000,000 as of March 31, 1994, shall file with the NCUA a quarterly Financial and Statistical Report on Form NCUA 5300, on or before January 22 (as of the previous December 31), April 22 (as of the previous March 31), July 22 (as of the previous June 30) and October 22 (as of the previous September 30) of each year. All other operating insured credit unions shall file with the NCUA on or before January 31 and on or before July 31 of each year a semiannual Financial and Statistical Report on Form NCUA 5300, as of the previous December 31 (in the case of the January filing) or June 30 (in the case of the July filing).

(2) NCUA Form 5300 may be obtained from the appropriate regional office.

* * * * *

[FR Doc. 92-18291 Filed 7-31-92; 8:45 am]

BILLING CODE 7535-01-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[Intl-0001-92]

RIN 1545-AQ43

Applications of Section 904 to Income Subject to Separate Limitations and Section 864(e) Affiliated Group Expense Allocation and Apportionment Rules; Hearing

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of public hearing on proposed regulations.

SUMMARY: This document provides notice of a public hearing on proposed Income Tax Regulations relating to the section 864(e) (5) and (6) affiliated group interest and other expense allocation and apportionment rules and the section 904(d) foreign tax credit limitation.

DATES: The public hearing will be held on Thursday, September 24, 1992 beginning at 10 a.m. Requests to speak and outlines of oral comments must be received by Thursday, September 3, 1992.

ADDRESSES: The public hearing will be held in the NYU Classroom, Second Floor, room 2615, Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, DC. Requests to speak and outlines of oral comments should be submitted to the Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Attn: CC:CORP:T:R [INTL-0001-92], room 5228, Washington, DC 20044.

FOR FURTHER INFORMATION CONTACT: Mike Slaughter of the Regulations Unit, Assistant Chief Counsel (Corporate), 202-622-8543, (not a toll-free number).

SUPPLEMENTARY INFORMATION: The subject of the public hearing is regulations that contain amendments to the Income Tax Regulations (26 CFR part 1) under section 864(e) of the Internal Revenue Code of 1986. These amendments are proposed to provide guidance on sections 1.861-9(h)(5), 1.861-11(d) (1), (2) and (6) and 1.861-14(d) (1) and (2), and under section 904 of the internal Revenue Code of 1954. These proposed regulations appeared in the **Federal Register** for Thursday, May 14, 1992 (57 FR 20680).

The rules of § 601.601(a)(3) of the "Statement of Procedural Rules" (26 CFR part 601) shall apply with respect to the public hearing. Persons who have submitted written comments within the time prescribed in the notice of proposed rulemaking and who also desire to present oral comments at the hearing on the proposed regulations should submit not later than Thursday, September 3, 1992, an outline of the oral comments/testimony to be presented at the hearing and the time they wish to devote each subject.

Each speaker (or group of speakers representing a single entity) will be limited to 10 minutes for an oral presentation exclusive of the time consumed by the questions from the panel for the government and answers to these questions.

Because of controlled access restrictions, attendees cannot be admitted beyond the lobby of the Internal Revenue Building until 9:45 a.m.

An agenda showing the scheduling of the speakers will be made after outlines are received from the persons testifying. Copies of the agenda will be available free of charge at the hearing.

By direction of the Commissioner of Internal Revenue.

Dale D. Goode,

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

[FR Doc. 92-18196 Filed 7-31-92; 8:45 am]

BILLING CODE 4830-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 92-156, RM-8021]

Radio Broadcasting Services; Knob Noster, MO

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition filed by Bick Broadcasting Company proposing the substitution of Channel 289C2 for Channel 289C3 at Knob Noster, Missouri, and modification of the construction permit for Station KXKX(FM) to specify the new channel. The coordinates for Channel 289C2 are 38-46-28 and 93-37-34.

DATES: Comments must be filed on or before September 15, 1992, and reply comments on or before September 30, 1992.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, as follows: James E. Janes, President, Bick Broadcasting Company, 119 N. 3rd Street, P.O. Box 711, Hannibal, Missouri.

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

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's notice of proposed rulemaking, MM Docket No. 92-156, adopted July 9, 1992, and released July 24, 1992. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, Downtown Copy Center, 1990 M Street, NW., suite 640, Washington, DC 20036, (202) 452-1422.

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

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

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

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Michael C. Ruger,

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

[FR Doc. 92-18235 Filed 7-31-92; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 91-338, RM-7852]

Radio Broadcasting Services; Belen and Grants, NM

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; dismissal of.

SUMMARY: The Commission denies the request of Don R. Davis to delete Channel 288C from Grants, New Mexico, and to reallot the channel, as a Class A, to Belen, New Mexico. *See* 56 FR 58531, November 20, 1991. An application for

use of Channel 288C at Grants has been filed by Margaret Everson (BPH–920113ME). With this action, this proceeding is terminated.

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

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 91–338, adopted July 9, 1992, and released July 24, 1992. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, Downtown Copy Center, (202) 452–1422, 1990 M Street, NW., suite 640, Washington, DC 20036.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Michael C. Ruger,

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

[FR Doc. 92–18234 Filed 7–31–92; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 94

[PR Docket No. 92–151; FCC 92–311]

Federal Access to Low Power 18 GHz Private Operational Fixed Microwave Systems

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes to amend § 94.17(a)(1) of the Rules to permit federal government users to be served by part 94 licensees operating 18 GHz low power systems licensed on digital termination system (DTS) channels on a for-profit, private carrier basis. At present, the federal government is not a part 94 eligible. The proposed rule would enable federal government to become an eligible end user of 18 GHz low power systems.

DATES: Comments must be filed on or before September 7, 1992, and reply comments must be filed on or before September 22, 1992.

ADDRESSES: Federal Communications Commission, Office of the Secretary, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Tatsu Kondo, Land Mobile and Microwave Division, Private Radio Bureau, (202) 634–3443.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rulemaking in PR Docket No. 92–151, FCC 92–311, adopted July 1, 1992, and released July 17, 1992. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW, Washington, DC. The full text of this decision may also be purchased from the Commission's copy contractor, Downtown Copying Center, 1114 21st St., NW., Washington, DC 20036, (202) 452–1422.

Summary of the Notice of Proposed Rulemaking

1. Under the current rules, licensees may operate multiple low power point-to-multipoint transmitters at sites anywhere within a 28 kilometer (17.5 mile) radius of the reference coordinates listed on the license. All private operational fixed licensees, including those with 18 GHz low power authorizations, may share their systems' excess capacity on a for-profit, private carrier basis under § 94.17(a) of the Rules. Customers of such private carriers, however, must themselves be eligible for licensing under part 94. See 47 CFR 94.5. The federal government is not a part 94 eligible.

2. On October 9, 1991, Motorola, Inc. filed a petition for rule making requesting modification of § 94.17(a)(1) of the Rules "to allow Federal Government entities to employ low power 18 GHz * * * spectrum as end users operating under licenses issued to private eligibles." Motorola currently markets to non-federal users an in-building wireless network (called "Altair") that operates, in most metropolitan areas, multiple low power transmitting devices on 18 GHz channels. Motorola's network provides local area networks ("LANs") that use radio, rather than hard wiring, to connect computing devices within an office, manufacturing or industrial complex. Motorola would like to extend this service to federal government end users under the shared use provisions of § 94.17(a).

3. Motorola, in its petition, sets forth the significant public interest benefits currently derived from the use of its wireless LANS by non-federal government eligibles. According to Motorola, the benefits Altair offers Part 94 eligibles are also applicable to the federal sector. We believe that the public interest would be served by adding the federal government as an eligible end user.

4. In a recent proceeding, the Commission amended the rules to allow Federal government entities to be eligible end users of Specialized Mobile Radio ("SMR") systems in the 800 and 900 MHz mobile bands. See Report and Order, PR Docket No. 86–404, 3 FCC Rcd 1838, 1849–40 (1988). We found that expanding end user eligible would increase communications options and enhance spectrum efficiency. *Id.* at 1842. We believe that analagous benefits would accrue from modifying the rules to allow the federal government to become an eligible end user of 18 GHz low power systems. We ask for comment on the rule change set forth below.

5. Authority for issuance of this Notice of Proposed Rulemaking is contained in sections 4(i) and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i) and 303(r). This is a non-restricted notice and comment rule making proceeding. To file formally in this proceeding, you must file an original and five copies of all comments, reply comments, and supporting comments. If you want each Commissioner to receive a personal copy of your comments, you must file an original plus nine copies.

Initial Regulatory Flexibility Analysis

A. Reason for Action

The Commission is proposing this rule change to enable private carriers using multiple low power point-to-multipoint transmitting devices on 18 GHz channels to operate wireless local area networks to offer their facilities or resell their excess capacity to federal government eligibles.

B. Legal Basis

Sections 4(i), 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 303(r).

C. Reporting, Recordkeeping, and Other Compliance Requirements

No new requirements will be imposed upon licensees because of this action.

D. Federal Rules Which Overlap, Duplicate, or Conflict With This Rule

None.

E. Description, Potential Impact, and Number of Small Entities Involved

Private carriers as well as resellers could offer 18 GHz channels for wireless local area networks to federal government eligibles. It is unknown how many small entities would develop wireless LANs using 18 GHz technology to serve federal eligibles. Allowing the federal government to become eligible for spectrum not currently available to it would allow private equipment

providers to meet in-building network needs with devices that are already commercially available instead of having to design equipment particularly for the federal sector.

F. Any Significant Alternatives Minimizing the Impact on Small Entities and Consistent With the Stated Objectives

None.

List of Subjects in 47 CFR Part 94

Radio.

Federal Communications Commission

Donna R. Searcy,

Secretary.

Proposed Rule

Part 94 of chapter 1 of title 47 of the Code of Federal Regulations is proposed to be amended as follows:

1. The authority citation for part 94 continues to read as follows:

Authority: Sections 4, 303, 48 Stat., as amended 1066, 1082; 47 U.S.C. §§154, 303, unless otherwise noted.

2. Section 94.17 is amended by revising paragraph (a)(1) to read as follows:

§ 94.17 Shared use of radio stations and the offering of private carrier communications service.

(a) * * *

(1) Persons or governmental entities licensed to operate radio systems on any of the frequencies set out in § 94.61(b) may share such systems with, or provide private carrier service to, any eligible for licensing under this part, regardless of individual eligibility restrictions enumerated in § 94.61(b), provided that the communications carried are permissible under § 94.9. In addition, persons or governmental entities licensed to operate low power systems under the provisions of § 94.88 may share such systems with, or provide private carrier services to, Federal Government entities, provided the communications carried are permissible under § 94.9.

* * * * *

[FR Doc. 92-18116 Filed 7-31-92; 8:45 am]

BILLING CODE 6712-01-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 1819 and 1852

Changes to NASA FAR Supplement on Quarterly Submission of Summary Subcontract Report

ACTION: Notice of proposed rulemaking.

SUMMARY: NASA is considering an amendment to the NASA FAR Supplement (NFS) that provides for a contract clause requiring prime and subcontractors to submit the Standard Form 295, Summary Subcontract Report, on a quarterly basis. To ensure a flow of timely data for management, NASA proposes a NASA FAR Supplement clause that will be placed in all contracts and subcontracts containing subcontracting plans and will require quarterly submission of the form.

DATES: Comments are due not later than September 2, 1992.

ADDRESSES: Comments should be addressed to Mr. Kenneth Jeffries, NASA Headquarters, Office of Procurement, Procurement Policy Division (Code HP), Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Kenneth Jeffries, Telephone: (202) 453-8253.

SUPPLEMENTARY INFORMATION: Interested persons are invited to submit written comments. All comments received before the expiration of the comment period will be considered before final action is taken on this proposal. No public hearing is planned.

Background

NASA requires information on subcontract awards that is more timely than the currently available data. The fiscal year 1990 and 1991 NASA Appropriations Acts have established a goal for the agency to award 8% of its prime and subcontract dollars to small disadvantaged businesses, women-owned small businesses, and minority educational institutions. Fiscal year 1994 has been set as the target for meeting the goal. While agency reporting procedures capture prime contract data on awards to small disadvantaged and women-owned firms and minority educational institutions, summary information on subcontract awards to those firms is submitted only annually to the agency on the Standard Form (SF) 295, Summary Subcontract Report. Currently, contractors are required to submit information on subcontract awards to Historically Black Colleges and Universities (HBCU's) and other minority educational institutions only to DOD on the SF 295. This information is now also desired by NASA. NASA procurement management considers that monitoring progress towards the 8% goal and aligning resources to meet it require subcontract information on a quarterly basis. Other alternatives have been considered and rejected. For example, the SF 294, Subcontracting Report for Individual Contracts, which is required only semiannually, is submitted to the contracting officer and not directly to agency headquarters, thus adding an element of delay in the data-gathering process. Another alternative was to develop a NASA-peculiar form that would reflect the needed data and would be submitted quarterly except when the SF 295 was submitted. This was rejected as an unnecessary burden when contractors already have procedures in place for preparing the SF 295. To ensure a flow of timely data for management, NASA proposes a NASA FAR Supplement clause that will be placed in all contracts and subcontracts containing subcontracting plans and will require quarterly submission of the form.

Comment on Alternatives

Interested persons are invited to suggest other methods, in addition to, or in place of, the proposed strategy for obtaining the necessary management information.

Availability of NASA FAR Supplement

The NASA FAR Supplement, of which this proposed coverage will become a part, is codified in 48 CFR chapter 18, and is available in its entirety on a subscription basis from the Superintendent of Documents, Government Printing Office, Washington, DC 20402. Cite GPO Subscription Stock Number 933-003-00000-1. It is not distributed to the public, either in whole or in part, directly by NASA.

Regulatory Flexibility Act

The proposed revision is not expected to have significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, et seq., because the contract clause will be inserted only in NASA prime and subcontracts that contain a small and small disadvantaged business subcontracting plan and such plans are not required of small business concerns (FAR 19.702(B)(1)).

Paperwork Reduction Act

An OMB clearance is being requested separately under the Paperwork Reduction Act.

List of Subjects in 48 CFR Parts 1819 and 1852

Government procurement.

Don G. Bush,

Deputy Assistant Administrator for Procurement.

1. The authority citation for 48 CFR parts 1819 and 1852 continues to read as follows:

Authority: 42 U.S.C. 2473(c)(1).

PART 1819—SMALL BUSINESS AND SMALL DISADVANTAGED BUSINESS CONCERNS

1819.708–70 [Amended]

2. Section 1819.708–70 is revised as set forth below:

a. The section heading to 1819.708–70 is revised to read as follows:

1819.708–70 NASA solicitation provision an contract clause.

b. In section 1819.708–70, the existing paragraph is designated as paragraph "(a)", and a new paragraph "(b)" is added to read as follows:

* * * * *

(b) The contracting officer shall insert the clause at 1852.219–74, Small Business and Small Disadvantaged Business Subcontracting Reporting, in solicitations and contracts containing the clause at FAR 52.219–9.

PART 1852—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

3. Part 1852 is amended as set forth below:

1852.219–73 [Amended]

a. In section 1852.219–73, in the prescribing language for the clause and for the alternate, the citation "1819.708–70" is revised to read "1819.708–70(a)."

1852.219–74 [Amended]

b. Section 1852.219–75 is added to read as follows:

1852.219–75 Small Business and Small Disadvantaged Business Subcontracting Reporting.

As prescribed in 1819.708–70(b), insert the following contract clause:

Small Business and Small Disadvantaged Business Subcontracting Reporting (xxxx)

(a) The Contractor shall submit the Summary Subcontract Report (Standard Form (SF) 295) quarterly for the reporting periods specified in block 1.A. of the form. Reports are due 30 days after the close of each reporting period.

(b) The Contractor shall also complete Item 15 (Subcontract awards to Historically Black Colleges and Universities/Minority Institutions) in accordance with the existing instructions applicable to DOD activities.

(c) All other provisions in the instructions paragraphs of the SF 295 remain in effect.

(d) The Contractor shall include this clause in all subcontracts that include the clause at FAR 52.219–9.

[FR Doc. 92–18152 Filed 7–31–92; 8:45 am]

BILLING CODE 7510–01–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AB42

Endangered and Threatened Wildlife and Plants; Proposed Reclassification of the Nile Crocodile From Endangered to Threatened

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The U.S. Fish and Wildlife Service (Service) proposes to reclassify the Nile crocodile (Crocodylus niloticus) from endangered to threatened under the provisions of the Endangered Species Act (Act) of 1973. The Nile crocodile was listed as endangered on June 2, 1970 (35 FR 8945) throughout its range. The Zimbabwe population was reclassified to threatened on September 30, 1988 (53 FR 38415). This and other information on its status prompted the Service on October 29, 1990, to initiate a status review of the species soliciting comments and information on its current status (55 FR 43387). The result of this status review indicates that the Nile crocodile is believed not to be in danger of extinction in any significant portion of its existing range. It was placed in Appendix I of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) on July 1, 1975. Subsequently, certain populations were transferred to Appendix II by agreement of the Parties to CITES. The controls on international trade under CITES and the Act help ensure that the Nile crocodile will not become endangered in the foreseeable future. A special rule is proposed that will allow for the importation of whole or partial skins, parts and finished products (but no live animals) into the United States in the course of a commercial activity.

DATES: Comments from all interested parties must be received by October 2, 1992. Public hearing requests must be received by September 17, 1992.

ADDRESSES: Comments, information, and questions should be submitted to the Chief, Office of Scientific Authority; Mail Stop: Room 725, Arlington Square; U.S. Fish and Wildlife Service; Washington, DC 20240. Fax number (703) 358–2276. Express and messenger-delivered mail should be addressed to the Office of Scientific Authority; room 750, 4401 North Fairfax Drive; Arlington, Virginia 22203. Comments and other information received will be available for public inspection, by appointment, from 8 a.m. to 4 p.m., Monday through Friday, at the Arlington, Virginia address.

FOR FURTHER INFORMATION CONTACT: Dr. Charles W. Dane, Chief, Office of Scientific Authority, at the above address, or by phone at (703) 358–1708.

SUPPLEMENTARY INFORMATION:

Background

Historically, the Nile crocodile (Crocodylus niloticus) was widespread throughout Africa as far north as Syria. Presently, it is confined chiefly to the upstream regions of the Nile, tropical and southern Africa, and Madagascar, the extent of its range when originally listed as endangered in 1970. In the 1950's and 1960's, throughout much of the then existing range, populations were seriously reduced by habitat alteration, hunting for the hide industry, or killing to eliminate threats to humans, livestock and the fishing industry.

The Nile crocodile was listed as endangered in 1970 (35 FR 8495) and on appendix I of CITES in 1975 (when CITES came into force) because of the widespread decline of the species. Since that time, a number of African countries have recognized the value of the Nile crocodile for its ecological role and as a source of sustainable economic benefit under proper management, especially through ranching for a controlled harvest of skins.

Throughout its range today, most Nile crocodile populations are reported to be increasing or to have at least stabilized. In some areas, dams on rivers have increased available habitat through the creation of lakes. Of those countries that have started ranching operations, Zimbabwe appears to have the best information on wild crocodile populations. Other nations, particularly Botswana, Ethiopia, Kenya, Malawi, Mozambique, South Africa, Tanzania, Uganda, and Zambia, have expanded their national data bases on wild crocodile populations in order to met the CITES criteria for ranching operations.

Because Zimbabwe had a well-developed ranching scheme and considerable data on the status of its wild populations, its ranching proposal was the first one accepted by the CITES Parties (1983). Based on this and other information, in 1987, the Service reclassified ranched populations of the Nile crocodile in Zimbabwe to threatened (52 FR 23148), and in 1988, the Service reclassified the wild populations of the Nile crocodile in Zimbabwe from endangered to threatened (53 FR 38451).

In 1984, CITES officials met in Brussels, Belgium, to discuss CITES implementation in Africa. The transfer of the Nile crocodile to Appendix II and the difficulty of satisfying the Berne criteria were major issues of discussion. Not all African nations had ranching schemes at that time or intentions to develop them. It was recognized that an alternative procedure was needed to allow for utilization of wild populations while information was being gathered to satisfy the rigorous criteria of resolutions Conf. 1.2 (Berne criteria) or Conf. 3.15 (ranching). The outcome was a quota system adopted by the Parties in 1985 as resolution Conf. 5.21. Under this procedure, Nile crocodile populations of nine African countries (Cameroon, Congo, Kenya, Madagascar, Malawi, Mozambique, Sudan, Tanzania, and Zambia), were transferred from appendix I to appendix II, subject to export quotas established by agreement of the Parties. The population of Botswana was added in 1986 through a postal vote. In 1987, export quotas were renewed for Nile crocodiles from all ten countries, and the CITES Secretariat initiated the CITES Nile Crocodile Project in eastern and central Africa and Madagascar (Hutton 1989).

At the 1989 CITES Conference of Parties, additional populations of Nile crocodile were transferred from appendix I to appendix II, pursuant to resolution Conf. 3.15 on ranching. This decision affected populations in Botswana, Malawi, Mozambique, and Zambia. The Party nations also agreed in 1989 to continue export quotas for the Nile crocodile, pursuant to resolutions Conf. 5.21 (export quota system) and Conf. 7.14 (annual export quotas). However, export quotas for Cameroon, Congo, Madagascar, and Sudan populations were set at zero for the present with export of only captive-raised specimens allowed from Madagascar in 1991 and 1992. The Parties also approved the transfer of Nile crocodile populations in Ethiopia and Somalia from appendix I to appendix II pursuant to Conf. 5.21.

The appropriateness of the original endangered listing under the Act and appendix I listing under CITES has been the subject of much international debate. However, improvements in the status of Nile crocodile populations and their management have prompted the CITES Parties to transfer 11 national populations to appendix II, most of these under the ranching criteria of resolution Conf. 3.15.

Comments

The Service received eight comments in response to its October 29, 1990, Federal Register notice initiating a status review of the Nile crocodile: two from range states Management Authorities (South Africa and Zimbabwe), two representing the International Union for the Conservation of Nature Crocodile Specialist Group (CSG), one from the German Scientific Authority, one from the trade industry (Repte Madagascar), one from Traffic/USA and one from the Crocodile Farmers Association of Zimbabwe. All expressed the opinion that the Service should reclassify the Nile crocodile from endangered to threatened and rely on CITES controls between producing and consuming countries to ensure that illegal products do not enter the market.

The Zimbabwe Department of National Parks and Wildlife Management furnished extensive comments, especially concerning the Service's special rule (50 CFR 17.42(c)) limiting imports to whole raw skins of ranched specimens imported directly from Zimbabwe into the United States. Zimbabwe contended that this negates the whole purpose of the transfer from Appendix I to II under the ranching provisions (Conf. 3.15). Zimbabwe requested that tanned skins be allowed to enter the U.S. if they bear the original CITES tags; and that other products be admitted, especially if they use product marking which is part of the German system.

The Natal Parks Board (South Africa) suggested that the listing under the Act should be changed to bring it in line with CITES, and indicated that South Africa was submitting a proposal to transfer its Nile crocodile population from appendix I to II for consideration at the 8th CITES meeting of the Parties in Kyoto, Japan. Dr. James Perran Ross, Executive Officer of the Crocodile Specialist Group (CSG) also recommended that the South African Nile crocodile population be reclassified as threatened under the Act. He presented information indicating that the Natal population numbered at about 4,400 individuals above one meter (3.28 feet) in length.

Dr. J.M. Hutton, Vice Chairman for Africa, CSG, commented that the Nile crocodile is not and has never been in danger of extinction. With current CITES controls, and the encouragement of ranching over hunting, he stated that commercial utilization is not a threat to the species. Even where some individual populations are under pressure from poor management (such as Madagascar), Hutton reported that CITES regulations and current levels of enforcement are adequate to ensure that illegal skins do not enter world trade. Hutton recommended that commercial skins be permitted to enter the U.S. in processed form provided the original self-locking CITES tag remains intact on the skin; and that finished products be admitted from Europe and elsewhere.

Dr. Hutton also submitted additional comments as Executive Manager of the Crocodile Farmers Association of Zimbabwe. These comments were in the form of a petition requesting reclassification of the Nile crocodile from endangered to threatened throughout its range. The information provided included a population model for the Nile crocodile and simulation of different harvesting strategies; status and distribution information from the CITES Nile Crocodile Project (1987–1988) including surveys of Botswana, Kenya, Madagascar, Malawi, Mozambique, Tanzania, and Zambia; and the report of the coordinator of the CITES Nile Crocodile Project to the CITES Secretariat. Since this information was received during the open comment period for a Service status review of the species, the information was considered as a comment for the purposes of this proposed rulemaking and not a formal petition under the Act.

Dr. Dietrich Jelden, Germany Scientific Authority for CITES, recommended reclassifying the Nile crocodile for Ethiopia and Tanzania to threatened while retaining the population of Somalia as endangered. Jelden based his conclusions on the CITES Nile Crocodile Project. At the 1989 Conference of the Parties, transfer of populations from appendix I to appendix II pursuant to resolutions Conf. 5.21. and 7.14 (annual export quotas) was agreed for these three countries.

Ms. Ginette Hemley of TRAFFIC/USA submitted extensive comments concerning the reclassification of the Nile crocodile. She noted that since 1983, CITES has accommodated important utilization needs of African countries with healthy Nile crocodile populations by transferring those populations to Appendix II under special export quota criteria. She added that ranching management practices have improved markedly in many countries, particularly in southern Africa. Ms. Hemley recommended that the Service reclassify from endangered to threatened those populations that have been transferred to Appendix II under the ranching criteria, especially the populations of Botswana, Malawi, Mozambique, and Zambia. Because these countries have implemented

ranching programs that have met the requirements of CITES for such transfers, she observed that the information available qualifies these populations for "threatened" status according to Section 4(a)(1) of the Endangered Species Act.

This proposed rule, if made final, would reclassify the Nile crocodile throughout its range from endangered to threatened, and would revise 50 CFR 17.11(h) by designation all Nile crocodile populations (wild, ranched, and captive bred) as threatened. It would also amend the special rule found at 50 CFR 17.42 by amending paragraph (c) to allow for the importation of skins, parts, and finished products) of the Nile crocodile into the United States with specific marking requirements and trade controls as required by CITES.

Summary of Factors Affecting the Species

Section 4(a)(1) of the Endangered Species Act (16 U.S.C. 1531 et seq.) and regulations implementing the listing provision of the Act (50 CFR part 424) set forth five criteria to be used in determining whether to add, reclassify, or remove a species from the Lists of Endangered and Threatened Wildlife and Plants. These factors and their applicability to populations of the Nile crocodile in Africa are as follows:

A. The Present or Threatened Destruction, Modification, or Curtailment of its Habitat or Range

The Nile crocodile is widely distributed throughout Africa, south of the Sahara, and is chiefly confined to the upper Nile, tropical and southern Africa, and Madagascar. It is regarded as a dangerous pest species and each year, many attacks on humans are reported. In the 1950's and 1960's, Nile crocodile populations were seriously reduced throughout much of their range because of habitat alteration, hunting for the hide industry, and killing to eliminate a threat to humans, livestock, and the fishing industry.

Little is known about Nile crocodile distribution and abundance prior to the 1960's. Intensive surveys and management of the species did not begin until the 1980's. The CITES Nile Crocodile Project was initiated in 1987 and surveys were conducted in the following countries: Botswana, Kenya, Madagascar, Malawi, Mozambique, Tanzania, and Zambia. Crocodile populations are either stable or increasing in all of these countries except Madagascar (Hutton 1988), although crocodiles are still widely distributed on the island. Most African countries have now recognized the species as valuable in terms of its ecological role and as a source of sustainable economic benefit when properly managed, especially the ranching of animals for a controlled harvest of skins. Commercial ranching of the species has increased the management and conservation of the wild populations. In some areas, dams on rivers have increased available habitat through the creation of lakes and lagoons.

In 1987, the Southern African Development Coordination Conference (SADCC) held a workshop on crocodile management and utilization to improve conservation efforts. Over the years, the SADCC countries (Angola, Botswana, Malawi, Mozambique, South Africa, Tanzania, Zambia and Zimbabwe) have taken an active role in the management of crocodiles. Intensive surveys have been conducted in several SADCC countries, and it is estimated that there are at least 43,000 crocodiles in the Zambezi River and lake system alone. The major rivers (4,064 km shoreline) and lakes (2,780 km shoreline) of Tanzania have about 76,000 animals. Zambia, with 6870 km of rivers and 5,776 km of lake shore, has over 150,000 crocodiles (Hutton et al. 1987). Nile crocodile populations in Southern Africa have recovered significantly and according to Hutton (1989), the species never was in danger of extinction.

B. Over-Utilization for Commercial, Recreational, Scientific, or Educational Purposes

The Nile crocodile has been persecuted as vermin, often with the aim of complete eradication. Harvest was accelerated in the 1950's and 1960's for the commercial export of hides. By the late 1960's, large-scale uncontrolled hunting had markedly declined in many countries, either because of legal protection or because it was no longer profitable to hunt crocodiles. In recognition of over-exploitation, the species was placed in appendix I of CITES in 1975. The subsequent recovery of most populations, even to nuisance levels, led to the need for a procedure to allow for controlled utilization of wild populations, so that there would be an economic incentive to conserve a species that was otherwise viewed as a threat.

Zimbabwe was the first African country to successfully use CITES procedures and criteria (Conf. 3.15 on ranching) to transfer its Nile crocodile population to Appendix II, thus allowing for regulated trade. Zimbabwe's ranching proposal was accepted in 1983. Following a meeting in 1984 at Brussels to discuss CITES implementation in Africa, an alternative procedure was adopted to allow for the utilization of wild populations while information was being gathered to satisfy the criteria of resolutions Conf. 1.2 or 3.15. In 1985, in accordance with resolution Conf. 5.21, Nile crocodile populations in nine African countries were transferred to Appendix II with export quotas. In 1986, the population of Botswana was added through the CITES postal procedure. In 1987, all ten African countries applied to continue their quotas. At the 1989 Meeting of the Conference of the Parties, ranching schemes (under Conf. 3.15) were approved for Botswana, Malawi, Mozambique, and Zambia. To date, 11 national populations of the Nile crocodile have been transferred to Appendix II either under the ranching criteria (Conf. 3.15) or the quota system (Conf. 5.21).

C. Disease or Predation

Disease and predation are not reported to be factors significantly affecting the status of Nile crocodile populations.

D. The Inadequacy of Existing Regulatory Mechanisms

The Parties to CITES have adopted a series of resolutions to allow for trade of Nile crocodile skins. Presently 11 countries have Nile crocodile populations listed in appendix II, chiefly under the resolutions on ranching (Conf. 3.15) and quotas (Conf. 5.21). Throughout Africa, countries are seeking to increase tolerance for the species and encourage the maintenance of wetland habitats by insuring that sustainable use gives the wild populations of Nile crocodiles an economic value.

The high value of Nile crocodile products and the relative abundance of animals have prompted many range countries to develop, or begin to develop, sustained-use management programs. Virtually all of these programs have been endorsed by the Parties to CITES. In 1987, the CITES Secretariat funded the CITES Nile Crocodile Project, which surveyed populations in seven African countries. Governments of African countries now advocate conservation of the species through ranching, egg collecting, and trade.

The adoption of universal tagging requirements for all crocodilian skins is an important step in addressing illegal trade. At the 8th meeting of the CITES Conference of the Parties in Kyoto, Japan, a resolution was passed establishing requirements for a universal tagging system for the identification of crocodilian skins in international trade. This resolution had

been strongly supported by the IUCN/SSC Crodile Specialist Group.

E. Other Natural or Manmade Factors Affecting Its Continued Existence

No other natural or manmade factors are considered to be significantly affecting the status of the Nile crocodile.

The Service has evaluated the best available biological and status information regarding past, present, and future threats faced by the Nile crocodile in proposing this rule. Criteria for reclassification of a threatened or an endangered species, found in 50 CFR 424.11(d); include extinction, recovery of the species, or error in the original data for reclassification. The proposed rule is based upon data that populations of the Nile crocodile have recovered sufficiently, threats have been significantly reduced, and therefore the species is not in danger of extinction. Identification of skins and products as to origin remains necessary to ensure that illegal skins do not enter into commercial trade.

Marking

International trade in certain crocodilian species has presented significant problems for the Parties to CITES; several resolutions have been adopted at previous meetings of the Parties to support management regimes for the conservation of particular species. The United States, in conjunction with Australia, submitted a resolution for consideration at the 1992 Meeting of the Conference of the Parties in Japan calling for a universal tagging system to identify crocodilian skins in international trade. This resolution was adopted by the Parties and the requirements are incorporated in this proposed rule. Adherence to the new marking requirements should minimize the potential for substitution of illegal skins and reduce the trade control problems associated with similarity in appearance of skins and products among different species of crocodiles.

Effects of This Rule

If this proposed rule is made final, it will reclassify all populations of the Nile crocodile from endangered to threatened under the Act. A special rule will amend 50 CFR 17.42 to allow for the importation of whole or partial skins, other parts and products of the Nile crocodile originating from CITIES appendix II populations in Africa under internationally agreed measures for the control of trade in CITES appendix II species. For all live specimens, not covered by these measures, the provisions of subpart D (17.31 and 17.32) remain in effect.

The special rule will require adherence to the CITES marking scheme for crocodilian skins and parts thereof. In addition, all requirements of CITES (50 CFR part 23), including proper export or re-export documents with respect to appendix II species, as well as laws of the countries of origin, must be met prior to allowing importation of specimens (live, partial or whole skins and finished products) into the United States. However, importation of skins or products will not be permitted from a country that has entered a reservation with respect to the Nile crocodile (a measure available to Parties to CITES that enables them not to observe the requirements of CITES for trade in the species in question). Presently, no country has entered a reservation on the Nile crocodile, although a Party might wish to do so at a future date.

Public Comments Solicited

The Service intends that any action resulting from this proposed rule is accurate and that it is as effective as possible. Therefore, any comments or suggestions from the public, other concerned governmental agencies, the scientific community, the trade industry, or any other interested party concerning any aspect of this proposal are hereby solicited. Comments are particularly sought concerning biological or commercial trade impacts on any Nile crocodile population, or other relevant data concerning any threat (or lack thereof) to wild populations of the Nile crocodile. Comments are also sought on the relevant listing of the Nile crocodile as threatened for similarity of appearance purposes only, since the primary purpose of this proposal is to declassify the Nile crocodile except for the need for the identification of skins and products as to origin to ensure that illegal skins do not enter into commercial trade.

Final rulemaking on the Nile crocodile will take into consideration all comments and any additional information received by the Service. Such communications may lead to adoption of final regulations that differ from those in the proposed rule.

The Endangered Species Act provides for a public hearing on this proposal, if requested. All requests must be filed within 45 days of the date of publication of this proposal. Such requests must be made in writing and addressed to the Office of Scientific Authority (see **ADDRESSES** section).

National Environmental Policy Act

The Fish and Wildlife Service has determined that an Environmental Assessment, 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).

Literature Cited

Hutton, J.M., J.N.B. Mphande, A.D. Graham, and H.H. Roth. 1987. Crocodile management and utilization in the SADCC region of Africa. Proc. of the SADCC Workshop on Crocodile Management and Utilization. 194 pp. + Annex.

Hutton, J.M. 1989. CITES and the Nile crocodile in East/Central Africa and Madagascar. Coordinator's report to the CITES Secretariat. 51 pp.

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and record-keeping requirements, and Transportation.

Proposed Regulations Promulgation

PART 17—[AMENDED]

Accordingly, it is hereby proposed to amend part 17, subchapter B of chapter I title 50 of the Code of Federal Regulations 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 by revising the current entry for the Nile crocodile under "Reptiles" on the List of Endangered and Threatened Wildlife to read as follows:

§ 17.11 Endangered and threatened wildlife.

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific						
Crocodile, Nile	*Crocodylus niloticus*	Africa, Middle East	Entire	T	3,279,334, —	NA	17.42(c)

3. Amend Section 17.42 by revising paragraph (c) to read as follows.

§ 17.42 Special rules—reptiles.

* * * * *

(c) Nile crocodile (*Crocodylus niloticus*)—(1) Prohibitions. The following prohibitions apply to Nile crocodiles:

(i) Except as allowed in paragraphs (c)(1)(ii) and (c)(2) of this section, it shall be unlawful to import or export any such wildlife.

(ii) Import and export. (A) Nile crocodiles consisting of raw and processed skins and parts thereof which are tagged in accordance with paragraph (c)(1)(ii)(B) of this section, as evidence that the wildlife was taken in accordance with the laws of the country of origin and in compliance with the requirements of CITES for appendix II species (50 CFR part 23), may be imported into the United States without permits otherwise required by 50 CFR part 17. The same information as is given on the tags affixed to the wildlife must be given on the accompanying CITES permit or certificate documents. Importation into the United States must comply with the requirements of 50 CFR parts 14 and 23.

(B) Nile crocodiles consisting of raw and processed skins (salted, crusted, or tanned) and parts thereof must be marked with intact, non-reusable tags that include as a minimum the International Organization for Standardization code for country of origin, a unique serial identification number, species code, and year of production, and further, such tags shall have the following characteristics: a self-locking system, heat resistance, inert to chemical and mechanical processing, and information to be applied by permanent stamping.

(C) Manufactured products of Nile crocodiles that do not have affixed tags as a consequence of processing, may be imported or exported without permits otherwise required by 50 CFR part 17. The CITES export permits and/or certificates of reexport must contain the same information as is on the tags for wildlife from which the manufactured products or other parts were obtained, as specified in Paragraph (c)(1)(ii)(B) of this section. Import into, and reexport from, the United States must comply with the requirements of 50 CFR parts 13 and 23.

(iii) Unlawful importation. It shall be unlawful, in the course of a commercial activity, to deliver, receive, carry, transport, or ship in interstate or foreign commerce any Nile crocodiles imported unlawfully.

(iv) Commercial transactions. It shall be unlawful to sell or offer for sale in interstate or foreign commerce any Nile crocodiles imported unlawfully.

(2) Permits. For prohibited activities and types of specimens, including live specimens, not expressly included in Paragraph (c)(1)(ii) of this section, the permit requirements and other provisions of subpart D of 50 CFR part 17 remain in effect.

Dated: July 17, 1992.

Richard N. Smith,
Director.

[FR Doc. 92–18231 Filed 7–31–92; 8:45 am]
BILLING CODE 4310–55–M

50 CFR Part 17

RIN 1018-AB73

Endangered and Threatened Wildlife and Plants; Public Hearing and Reopening of Public Comment Period on Proposed Threatened Status for the Pacific Coast Population of the Western Snowy Plover (Charadrius Alexandrinus Nivosus)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; notice of public hearing and reopening of public comment period.

SUMMARY: The U.S. Fish and Wildlife Service (Service), pursuant to the Endangered Species Act of 1973; as amended (the Act), gives notice that a public hearing will be held on the proposed threatened species status for the Pacific coast population of the western snowy plover (*Charadrius alexandrinus nivosus*), and that the comment period is reopened and extended. The hearing and reopening and extension of the comment period will allow all interested parties to submit oral and written comments on the proposal. The proposed rule was published on January 14, 1992 (57 FR 1443).

DATES: The comment period on the proposal is reopened and extended until August 31, 1992. The public hearing will be held from 6 p.m. to 8 p.m. on August 18, 1992, in Newport, Oregon. Any comments received after the closing date may not be considered in the final decision on this proposal.

ADDRESSES: The public hearing will be held at the Hatfield Marine Science Center auditorium, south of the Newport Bridge off Highway 101, Southbeach, Oregon. Written comments and materials concerning this proposal should be sent to the U.S. Fish and Wildlife Service, 2800 Cottage Way, room E-1803, Sacramento, California 95825-1846. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Ms. Karen J. Miller, Sacramento Field Office (see **ADDRESSES**) at 916/978-4613.

SUPPLEMENTARY INFORMATION:

Background

The Pacific coast population of the western snowy plover breeds primarily on coastal beaches from southern Washington to southern Baja California, Mexico. Other less common nesting habitat includes salt pans, coastal dredge disposal sites, dry salt ponds, and salt pond levees. Historically, the Pacific coast population of the western snowy plover nested at over 80 locations on the cost of California, Oregon, and Washington. Today only 28 major nesting areas remain. In addition to loss of nesting areas, the size of the coastal population also has declined. Human activity on beaches (walking, jogging, walking pets, off-road vehicle use, horseback riding, etc.) during the plover breeding season, and encroachment of exotic European beachgrass (*Ammophila arenaria*) are primary factors in the observed decline of the western snowy plover on the Pacific coast. A proposed rule to list the Pacific coast population of the western snowy plover as a threatened species was published in the Federal Register on January 14, 1992 (57 FR 1443).

Subsection 4(b)(5)(E) of the Act, as amended (16 U.S.C. 1531 *et seq.*) requires that a public hearing be held if it is requested within 45 days of the publication of a proposed rule. On March 2, 1992, the Service received a written request for a public hearing from Mr. John Thomas, Jr., a private citizen residing in Monmouth, Oregon. As a result, the Service has scheduled a public hearing for August 18, 1992, from 6 p.m. to 8 p.m. at the Hatfield Marine Science Center auditorium, south of the Newport Bridge off Highway 101, Southbeach, Oregon.

Parties wishing to make statements for the record should bring a copy of their statements to the hearing. Oral statements may be limited in length, if the number of parties present at the hearing necessitates such a limitation. There are, however, no limits to the length of written comments or materials presented at the hearing or mailed to the Service. Written comments carry the same weight as oral comments. The comment period closes on August 31,

1992. Written comments should be submitted to the Service (see **ADDRESSES** section above).

Author

The primary author of this notice is Ms. Karen J. Miller, Sacramento Field Office (see **ADDRESSES** section).

Authority: The authority for this action is the Endangered Species Act (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).

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, and Transportation.

Dated: July 20, 1992.

Bruce Blanchard,

Acting Director, U.S. Fish and Wildlife Service.

[FR Doc. 92–18362 Filed 7–31–92; 8:45 am]

BILLING CODE 4310–55–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 216, 218, and 222

[Docket No. 920106–2006]

RIN 0648–AD30

Approaching Marine Mammals

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

ACTION: Proposed rule and request for comments.

SUMMARY: NMFS is proposing regulations to protect whales, dolphins and porpoise from activities associated with watching these animals and to provide greater protection by not allowing people, vessels and aircraft to approach them closer than a specified distance.

DATES: Comments on the proposed rule must be received by October 2, 1992. Requests for public hearing must be received on or before September 17, 1992.

ADDRESSES: Comments and requests for a public hearing and an Environmental Assessment should be addressed to Dr. Nancy Foster, Director, Office of Protected Resources, National Marine Fisheries Service, 1335 East-West Highway, Silver Spring, MD 20910.

FOR FURTHER INFORMATION CONTACT: Margaret C. Lorenz, Office of Protected Resources, 301–427–2322; Douglas Beach, Northeast Region, 508–281–9254; James Lecky, Southwest Region, 213–514–6664; Eugene Nitta, Pacific Area Office, 808–955–8831; Charles Oravetz, Southeast Region, 813–893–3366; Brent Norberg, Northwest Region, 206–526–6110; or Steven Zimmerman, Alaska Region, 907–586–7233.

SUPPLEMENTARY INFORMATION:

Background

In November 1988, NMFS and the Center for Marine Conservation sponsored a workshop to evaluate whale watching programs and management needs. Because of the rapid growth of the whale watching industry, as well as an increasing interest in observing or approaching all marine mammals in the wild by the general boating public, those responsible for the management and protection of these animals were concerned that these activities were causing biological problems for the animals.

The workshop brought together knowledgeable representatives of the whale watching industry and of the conservation, management and scientific communities throughout the United States and Canada to review whale watching activities and available information on the effects of whale watching. The goal was to give direction to NMFS in carrying out its responsibilities to protect whales from potentially harmful activities associated with whale watching.

Although other threats to whales and their habitats were identified, most participants believed that better protection of whales could be achieved relatively easily if whale watching were better regulated. Workshop participants emphasized that regulations should be simple to understand, follow and enforce. Most of the participants agreed that minimum approach distances should be required although they were concerned about the difficulty of ensuring compliance by private boaters. Workshop participants concurred that new regulations needed to be combined with a vigorous public education effort.

The participants recommended that NMFS issue regulations that would prohibit people, vessels and aircraft from approaching whales closer than a specified distance. Also, the regulations should include restrictions on related activities such as feeding, swimming and diving with marine mammals; address behavior such as how to operate a vessel if a whale approaches the vessel; provide special prohibitions on areas such as feeding or calving grounds or on situations such as whale watching or mating pairs or cow/calf pairs; and prohibit activities that involve feeding wild populations of cetaceans.

NMFS addressed feeding marine mammals by amending the definition of "take" (50 CFR 216.3) to include feeding marine mammals in the wild. The final rule became effective April 19, 1991 (56 FR 11693).

NMFS believes the public can benefit from seeing marine mammals in their natural environment; however, the public must be aware that these animals, especially whales, are vulnerable to injury and disturbance by people, vessels and aircraft. Many whales are slow-moving, can escape only by diving, and in some regions are distributed in limited areas. Vessel traffic may subject whales to impacts ranging from displacing cow/calf pairs from nearshore waters to expending increased energy when feeding is disrupted or migratory paths rerouted.

Although whales were the focus of the workshop, NMFS and the workshop participants expressed concern about the effects of observing smaller cetaceans (dolphins and porpoise) and pinnipeds (seals and sea lions). While dolphins and porpoise may be more mobile than whales, NMFS believes there is a need to include these marine mammals in the proposed regulations.

Seals and sea lions are also vulnerable to disturbance, especially while using haul-out sites. Regulations are currently in effect that prohibit vessels from operating within buffer zones 3 nautical miles around the principal Steller sea lion rookeries in the Gulf of Alaska and the Aleutian Islands (55 FR 49204). Also, NMFS has determined that the Hawaiian monk seal would benefit from a regulated minimum approaching distance. However, other than for Hawaiian monk seals and Steller sea lions, NMFS does not believe there is a demonstrated need to regulate approach distances for these animals at this time. Therefore, NMFS is publishing draft guidelines, rather than proposing regulations, for approaching seals and sea lions. The guidelines are being published in the same issue of the **Federal Register** as this proposed rule.

NMFS is proposing these regulations under the authority of section 112(a) of the Marine Mammal Protection Act (MMPA) which authorizes NMFS to prescribe such regulations as are necessary and appropriate to carry out the purposes of the MMPA.

Under the MMPA, a "take" of marine mammals is prohibited unless an exception has been made. In 50 CFR 216.3, "take means to harass, hunt, capture, collect, or kill, or attempt to harass, hunt, capture, collect, or kill any marine mammal. This includes, without limitation, any of the following: the

collection of dead animals, or parts thereof; the restraint or detention of a marine mammal, no matter how temporary; tagging a marine mammal; the negligent or intentional operation of an aircraft or vessel, or the doing of any other negligent or intentional acts which result in disturbing or molesting a marine mammal; and feeding or attempting to feed a marine mammal in the wild."

Threatened or endangered marine mammals are protected further by the Endangered Species Act (ESA) which defines "take" as harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or attempt to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect.

Although NMFS has used several measures, with varying success, to protect marine mammals from activities associated with "watching" them, the Federal government, scientists, conservation groups, and industry representatives continue to be concerned about the effects these activities are having on marine mammals.

In 1979, NMFS issued a Notice of Interpretation of harassment for humpback whales in Hawaii and defined harassment as substantial disruption of whale behavior. Inclusion of distance limits was seen as a compromise for enforcement purposes. However, by 1985, the Notice was losing its effectiveness as an enforcement tool because harassment cases were difficult to prosecute. Enforcement agents had to document substantial disruption of normal whale behavior patterns. In response to the problem of enforcing the Notice, NMFS published an interim rule that includes a 100-yard minimum approach distance to humpback whales and a 300-yard minimum distance for areas that have been designated as cow/calf pair areas. The whale watching industry in Hawaii continues to grow, and NMFS has successfully prosecuted cases of harassment since the interim rule went into effect. Although the continued growth of the thrillcraft industry in an area where humpback whales breed is cause for concern, NMFS enforcement agents believe that several highly publicized cases (one involving an $11,000 civil penalty) has actually reduced the general level of harassment of humpback whales.

Effects of Approaching Marine Mammals

The cetaceans likely to be approached for observation in areas under the jurisdiction of the United States include the blue whale, right whale, humpback whale, gray whale, fin whale, killer whale, minke whale and a variety of dolphins and propoise. Of these, the following occur the most often in areas where there is whale watching activity.

Right Whales

The northern right whale is the only large whale species that is in danger of becoming extinct in the near future. Current estimates indicate that there are no more than 600 individuals left with 300 to 350 found in the North Atlantic Ocean and 250 to 300 in the North Pacific Ocean. The western North Atlantic stock is under severe habitat pressure from human activities. Direct competition with other species and from humans for space on the feeding grounds, disturbance from water-borne noise and mortalities from incidental take in commercial fisheries may be having an impact on recovery.

Northern right whales are the object of commercial whale watching mainly in two areas: Cape Cod Bay in late spring and the lower Bay of Fundy in the late summer and fall. The Draft National Recovery Plan for the Northern Right Whale recommends regulating whale watching activities directed at this species. Although whale watch captains generally have cooperated in following NMFS' guidelines and the recommendations of the recovery team, in 1986, when right whales were the only large whale species in the Gulf of Maine area, there were multiple whale watching vessels around the animals throughout the season.

Humpback Whales

Although the status of most humpback whale stocks is uncertain, the species has probably not recovered according to a 1984 report of the International Whaling Commission. The Western North Atlantic population is estimated at 5,505 animals. The Recovery Plan for the Humpback Whale states that the effects of disturbance and habitat displacement from human activities (e.g., vessel noise and interference) on humpback whales in the western North Atlantic may be affecting the stock's recovery.

The eastern North Pacific stock of humpback whales which migrates from Hawaii and Mexico to Alaska and California, respectively, is presently estimated at about 2,000 animals. However, habitat use patterns of nearshore waters by females and calves near Maui, Hawaii, have been altered, suggesting these animals are being displaced by increasing vessel and other human activities.

Commercial whale watching trips focusing on stocks of humpback whales are already significant tourist industries in Canada, the U.S. east coast from Maryland to Maine, the Virgin Islands, California, Hawaii and Alaska.

Gray Whales

The eastern North Pacific (California) stock or gray whales has recovered from commercial whaling. The present stock size (21,113) is at or above its initial 1846 stock size (15,000 to 20,000). The gray whale is the primary object of whale watching activities as it migrates between Mexico and Alaska along the coast of California. A large whale watching industry and a large concentration of private boats operate along the Southern California Bight which results in repeated exposure of the whales to various human activities. A much smaller whale watching industry operates around the San Francisco area.

Establishing a refuge where no vessel activity is allowed and regulating the number of vessels visiting the breeding lagoon of San Ignacio, Baja, California, may have been a key factor in maintaining the stability of the gray whale population. In the mid 1970s, 90 percent of all human activity in the lagoon was attributable to whale watching conducted from small skiffs launched from large excursion vessels, and there was concern that U.S.-based tourism was having a detrimental effect on the gray whales in their breeding lagoons. Mexico has designated this and two other areas as refuges for gray whales and enacted regulations to manage human activities during the winter whale/tourism season.

Fin Whales

Although the status of the stocks of fin whales is unknown, it is believed to be depleted relative to historic levels, but abundant relative to other large whale species. The total world population size is about 120,000. However, no similar population exists in U.S. waters. Fin whales are included in the species of large whales that are the object of whale watching activities on Stellwagen Bank in Massachusetts Bay. Avoidance behavior by fin whales, defined as erratic changes in course, speed, behavior or respiratory rhythm, has been shown to be associated with vessel activity in Cape Cod and Massachusetts Bay.

Killer Whales

Data on the estimated population of killer whales are incomplete. However, at the 1988 whale watching workshop, it was reported that resident killer whales have been subject to intensive field

study and, recently, to increased whale watching and harassment from private recreational boats in the inland marine waters of Washington State and southern British Columbia. Also, a reduction in sleep/rest behavior during daylight has been observed. Recommendations were made to enact management measures to minimize disturbance from vessels.

Bottlenose Dolphins

There is no estimate of the total world population of any species of dolphins although NMFS estimates that there are 14,000 to 23,000 bottlenose dolphins in the western North Atlantic Ocean. NMFS has proposed to designate the coastal-migratory stock of bottlenose dolphins along the U.S. mid-Atlantic coast as depleted under the MMPA because the stock declined by more than 50 percent as a result of a die-off that occurred during 1987–88.

While coastal populations of dolphins, especially bottlenose dolphins, are popular to observe by private boaters, they are not the primary object of most commercial whale watching cruises except in the southeastern United States. Along the Coastal States of Florida, South Carolina, and Texas, commercial cruises to observe marine species were combined with dolphin feeding tours until NMFS defined feeding any marine mammal under its jurisdiction as a form of "take" under the MMPA (50 CFR 216.3). This, in effect, prohibits feeding marine mammals in the wild. During the public hearings held on the feeding prohibition, many commenters reported not only observing dolphins from private boats, but feeding and swimming with them. Several commenters stated that they have actually witnessed dolphins being hit by boat propellers and chased down by high-powered motor boats. Members of NMFS stranding network have reported dead dolphins on beaches with wounds probably inflicted by boat propellers or the boat itself.

Hawaiian Monk Seals

This species is the most endangered seal in U.S. waters and is limited almost entirely to the 1,100-miles chain of small remote islets and atolls that make up the Northwestern Hawaiian Islands. NMFS estimates the population at slightly more than 1,000 animals. Although the monk seal is not known to be the object of any organized observation tours, NMFS has documents human disturbances at pupping and haulout beaches, and believes that regulations will reduce this disturbance.

Summary of Proposed Rule

The proposed rule would apply to all persons subject to the jurisdiction of the United States or any vessel or aircraft operating in water or lands under the jurisdiction of the United States. However, it would not apply to activities, such as commercial fishing and scientific research, that operate under a permit or an exemption issued under other sections of the MMPA or ESA. The regulations would apply to all cetaceans (whales, dolphins and porpoise) and one species of pinniped, the Hawaiian monk seal.

Definitions

Since several small whales such as killer whales are members of the dolphin family and the approach distances are different for the two groups, the terms whale, dolphin and porpoise are defined.

General Requirements

Vessels or aircraft that carry paying passengers for the purpose of observing whales, dolphins or porpoise are required to post on board a copy of the regulations and a copy of the diagram that illustrates how observing these animals should be conducted.

General Prohibitions

The proposed rule sets a minimum approach distance of 100 yards (91.4 meters) for all whales and 50 yards (45.7 meters) for dolphins and porpoise. Aircraft would be prohibited from operating within 1,000 feet (304.8 meters) of these animals.

Regional Prohibitions

The proposed rule would remove the interim rule for approaching humpback whales in Hawaii (50 CFR 222.31) that has been in effect since December 1987, and incorporate it into this rulemaking. In addition to the general minimum approach distance of 100 yards (91.4 meters) for whales, it would incorporate the 300-yard (274.2) minimum distance for approaching humpback whale cow/calf pairs. The description of cow/calf pair boundaries in the proposed rule is consistent with that used by the State of Hawaii in its Ocean Recreation Management Plan.

Also, the proposed rule would establish a minimum distance of 100 yards (91.4 meters) for approaching Hawaiian monk seals on land or in the water.

Vessel Operating Procedures

The proposed rule includes vessel operation procedures to protect whales, dolphins and porpoise and to reduce the likelihood of a "take" of these animals. They include precautions that should be taken by a vessel operator when approaching a whale, dolphin or porpoise or when an animal once approaches a vessel that is underway.

Scientific Research Permits

Under current NMFS guidelines for approaching marine mammals, research may be conducted without a research permit from any vessel as long as the guidelines are followed and harassment does not occur. The proposed regulations would not prohibit research conducted from whale, dolphin or porpoise watching vessels as long as the vessels follow the regulations and do not harass the animals. Research that may result in harassment or that involves approaches closer to the animals than the regulations allow would require a research permit. Also, it is NMFS' policy that research conducted under a permit may not take place in conjunction with commercial whale or dolphin watching because permit holders may be allowed to approach these animals closer than the regulations would allow the general public to approach.

Conclusion

It may be possible to approach some populations of whales, dolphins and porpoise closer than the minimum distances proposed in these regulations without harassing them. However, these distances are close enough to allow people to observe marine mammals while providing a measure of safety for these animals that is consistent with sound management practices required by the MMPA. Also, the minimum approach distances are easy to remember and are relatively easy to estimate due to their common use by many people (e.g., a football field equals 100 yards (91.4 meters)).

Regulations that are easy to understand, follow and enforce are the most effective tool NMFS has to reduce disturbances to marine mammals. The proposed regulations represent the recommendations, judgement and experience of wildlife biologists, managers, and enforcement agents. NMFS will consider amending the regulations should a final rule be issued and new information indicates that an approach distance should be more or less than the distances proposed or if there is a demonstrated need for other populations of seals and sea lions to be protected by minimum approach distances.

The interim regulations governing the approach of humpback whales in Hawaii that have been in effect since

1987 demonstrate that regulations can provide the legal framework for reducing harassment of whales without affecting the whale watching industry.

Classification

NMFS prepared an environmental assessment (EA) for this proposed rulemaking and concluded that there will be no significant impact on the human environment as a result of the rule. A copy of the EA is available on request (See ADDRESSES).

The Assistant Administrator for Fisheries, NOAA, determined that this proposed rule is not a "major rule" requiring a regulatory impact analysis under Executive Order (E.O.) 12291. The proposed regulations are not likely to result in (1) an annual effect on the economy of $100 million or more; (2) a major increase in costs or prices for consumers, individual industries, or government agencies; or (3) significant adverse effects on competition, employment, productivity, innovation, or on the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The General Counsel of the Department of Commerce certified to the Small Business Administration that the proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities. Although the rule would set limits on how marine mammals can be approached and from what distances, it would not prohibit cruises or other activities involving the observation of marine mammals.

This rule does not contain collection-of-information requirements subject to the Paperwork Reduction Act. However, scientific research permits for marine mammals have been approved by the Office of Management and Budget for collection-of-information under CONTROL NO. 0648–0084. This rule does not contain policies with federalism implications sufficient to warrant preparing a federalism assessment under E.O. 12612.

List of Subjects

50 CFR Parts 216 and 222

Endangered and threatened wildlife, Exports, Imports, Marine mammals, Transportation.

50 CFR Part 218

Endangered and threatened wildlife, Marine mammals.

Dated: July 28, 1992.

Michael F. Tillman,

Deputy Assistant Administrator for Fisheries.

For reasons set forth in the preamble, in title 50 CFR, a new part 218 is proposed to be added and parts 216 and 222 are proposed to be amended as follows:

PART 216—REGULATIONS GOVERNING THE TAKING AND IMPORTING OF MARINE MAMMALS

1. The authority citation for part 216 continues to read as follows:

Authority: 16 U.S.C. 1361 *et seq.*, unless otherwise noted.

2. In § 216.11, the introductory text is amended to read as follows:

§ 216.11 Prohibited taking.

Except as provided in subparts C, D, and I of this part or in parts 218, 228 or 229 of this chapter, it is unlawful for:

* * * * *

3. A new part 218 is added to read as follows:

PART 218—REGULATIONS GOVERNING APPROACHES TO MARINE MAMMALS

Sec.

Authority: 16 U.S.C. 1361–1407 and 1531–1543.

§ 218.1 Definitions.

In addition to definitions contained in the Marine Mammal Protection Act of 1972, 86 Stat. 1027, 16 U.S.C. 1361–1407, Public Law 92–522, and unless the context otherwise requires, in this part 218:

Dolphin and *porpoise* mean all members of the families Delphinidae, Phocoenidae, Monodontidae and Physeteridae that are not listed in the definition of whale.

Whale means all baleen whales (Mysticeti) and toothed whales (Odontoceti) including sperm whale, beluga whale, killer whale, pilot whale, all beaked whales, and narwhal.

§ 218.2 General requirements.

A copy of the regulations in 50 CFR part 218 including Figure A, which illustrates how responsible observation of whales, dolphins and porpoise should be conducted, must be posted on any vessel or aircraft carrying paying passengers to observe these animals. The regulations and Figure A must be clearly visible to all passengers.

§ 218.3 General prohibitions.

Except as provided in §§ 216.24, 216.31, 222.28, and parts 228 and 229 of this chapter, it is unlawful for any person subject to the jurisdiction of the United States, or any U.S. citizen on the high seas to commit, or attempt to commit, to solicit another to commit or to cause to be committed, any of the following acts with respect to any species of whale, dolphin or porpoise:

(a) Operate an aircraft within 1,000 feet (304.49 meters) of any whale, dolphin or porpoise or attempt to encircle any whale, dolphin, or porpoise with an aircraft;

(b) Approach a whale, dolphin or porpoise in a vessel or by any other means including, but not limited to, swimming or diving, or cause a vessel or other object to approach within 100 yards (91.44 meters) of whales or 50 yards (45.72 meters) of dolphins or porpoise; or

(c) Operate a vessel or aircraft or carry out an activity in a manner that disrupts the normal movement or behavior of a whale, dolphin or porpoise. A disruption of behavior may be manifested by, but is not restricted to, the following: A rapid change in direction or speed; escape tactics such as prolonged diving or fleeing into the water, underwater course changes, underwater exhalation, or evasive swimming patterns; interruptions of feeding or migratory activities; aggressive postures or changes directed at intruders; attempts by a whale, dolphin or porpoise to shield a calf from a vessel or human observer; the abandonment of a previously frequented area; or other stress related behavior that may include vocalizing, finning, tail lobbing, tail raking, or breaching.

§ 218.4 Regional prohibitions.

Except as provided in §§ 216.24, 216.31, 222.28, and parts 228 and 229 of this chapter, it is unlawful for any person subject to the jurisdiction of the United States, or any U.S. citizen on the high seas to commit, or attempt to commit, to solicit another to commit, or to cause to be committed, any of the following acts:

(a) In Hawaii, approach any humpback whale by any means within 300 yards (274.32 meters) or cause a vessel or other object to approach any humpback whale within 300 yards (274.32 meters) in areas designated as cow/calf waters in paragraph (c) of this section.

(b)(1) In the northwestern Hawaiian Islands, approach monk, seals, on land or in water, within 100 yards (91.4 meters) or pass between a mother an

pup monk seal, separate them or disturb them in any way.

(2) The following precautions should be taken in certain locations, such as French Frigate Shoals, Kure and Midway, where a 100-yard minimum (91.4 meters) approach distance from monk seals may not be possible to maintain:

(i) Walk near or behind the vegetation line or beach crest to pass monk seals hauled out on the beach near the water's edge. Follow the reverse procedure when passing monk seals hauled out high on the beach or into the vegetation and

(ii) Remain out of sight of monk seals when passing them.

(c) The following areas are designated as humpback whale cow/calf waters in Hawaii:

(1) Adjoining the Island of Lanai—all waters within 2 miles (1.2 kilometers) of the mean high-water line along the north and east coast between lines extending perpendicular from the coast between Kaena Point and Kamaiki Point; and

(2) Adjoining the Island of Maui—all waters inshore of the following boundary: Beginning at the shoreline of the southwestern tip of Puu Olai Point, then, by azimuth measured clockwise from true South, 082 degrees for a distance of 2 nautical miles; 141 degrees for a distance of 19 nautical miles; 164 degrees for a distance of 3 nautical miles; 184 degrees for a distance of 4.3 nautical miles; then 295 degrees to Hawea Point.

§ 218.5 Vessels operating procedures.

(a) When a whale, dolphin or porpoise approaches a vessel that is underway, the operator of that vessel should take precautions to minimize disturbance to the animal. These actions include maintaining speed and direction and avoiding low-speed maneuvering such as reversing direction, using bow thrusters, or suddenly changing propeller pitch.

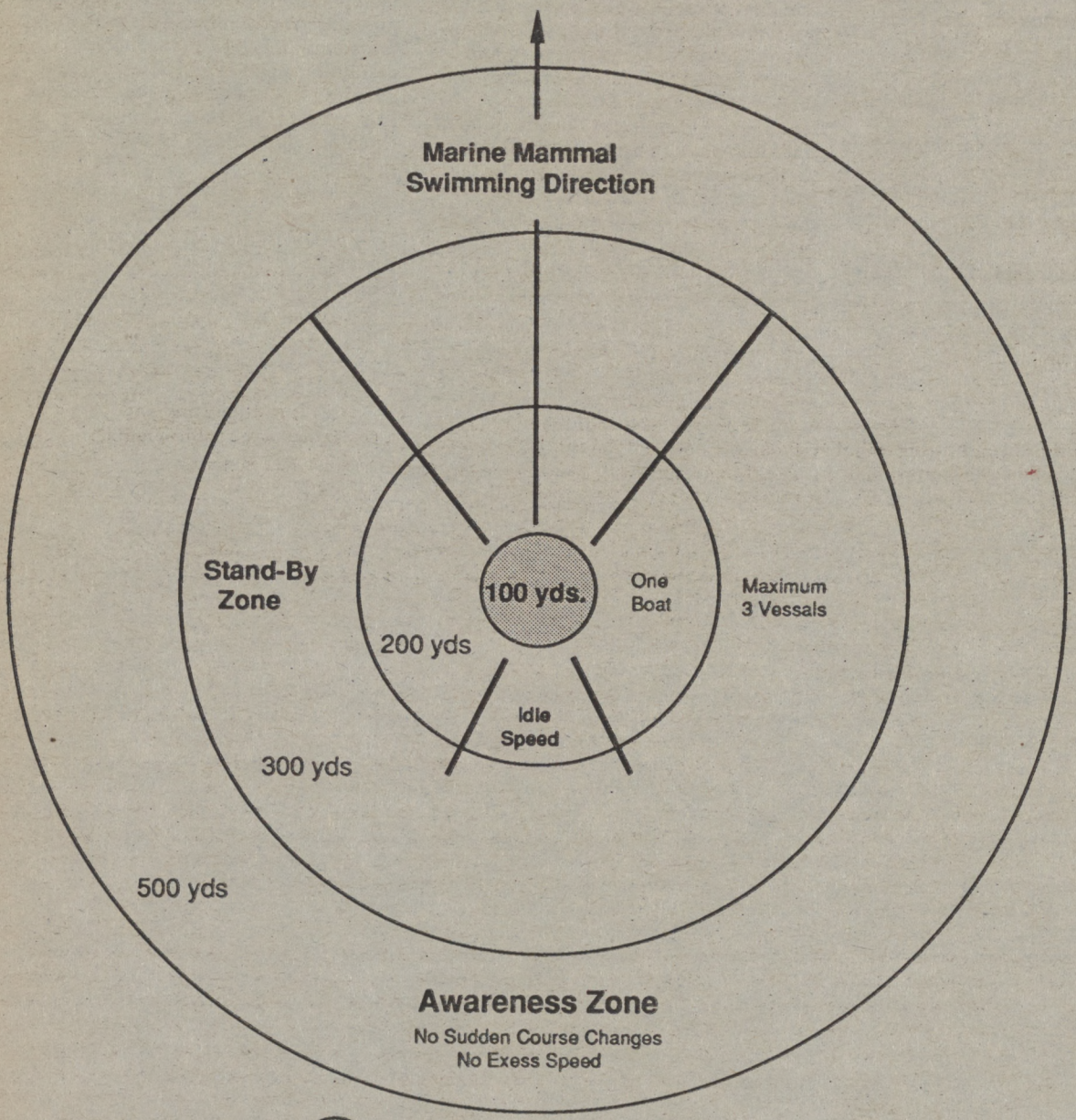
(b) A whale, dolphin or porpoise should never be approached "head-on" by a vessel or aircraft from any distance.

BILLING CODE 3510-22-M

Figure A

NOAA Whale Watching Guidelines

(Includes dolphins and porpoise)



- Approaches closer than **100 yds** to whales and **50 yds** to dolphins are prohibited by Federal Law.

National Marine Fisheries Service
1335 East West Highway
Silver Spring, Maryland 20910

BILLING CODE 3510-22-C

PART 222—ENDANGERED FISH OR WILDLIFE

5. The authority citation for part 222 continues to read as follows:

Authority: 16 U.S.C. 1531–1543.

Subpart D—[Removed]

6. In subpart D, § 222.31 and the subpart heading are removed and subpart D is reserved.

[FR Doc. 92–18214 Filed 7–31–92; 8:45 am]
BILLING CODE 3510–22–M

50 CFR Part 625

Summer Flounder Fishery

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

ACTION: Notice of availability of fishery management plan amendment and request for comment.

SUMMARY: NMFS issues this notice that the Mid-Atlantic Fishery Management Council (Council) has resubmitted a portion of Amendment 2 to the Fishery Management Plan for the Summer Flounder Fishery (FMP) for Secretarial review and is requesting comments from the public.

DATES: Comments on the revised amendment should be submitted by August 21, 1992.

ADDRESSES: All comments may be sent to Mr. Richard B. Roe, Director, Northeast Region, National Marine Fisheries Service, 1 Blackburn Drive, Gloucester, MA 01930–3799. Copies of the revised Amendment 2, and the environmental impact statement/regulatory impact review may be obtained from John C. Bryson, Director, Mid-Atlantic Fishery Management Council, room 2115, Federal Building, 300 S. New Street, Dover, DE 19901–6790.

FOR FURTHER INFORMATION CONTACT: Kathi L. Rodrigues, Resource Policy Analyst, (508) 282–9324.

SUPPLEMENTARY INFORMATION: Amendment 2 was prepared by the Council and submitted to the Secretary of Commerce (Secretary) for review under section 304(b) of the Magnuson Fishery Conservation and Management Act (Magnuson Act). The Magnuson Act requires the Secretary to approve, disapprove, or partially disapprove FMPs or amendments based upon a determination of consistency with the national standards and other applicable law. The Secretary has announced disapproval of one of the measures proposed in the notice of availability for Amendment 2 (57 FR 19874, May 8, 1992) and again in the proposed rule to implement Amendment 2 (57 FR 24577, June 10, 1992). The remaining measures were accepted for Agency and public review and are contained in the June 10, 1992, proposed rule.

To replace the disapproved measure, the Council adopted and submitted a revision to Amendment 2 for Secretarial review. The revised measure would prohibit Federally permitted vessels from landing in a state that has harvested its quota, as determined by the Director, Northeast Region, NMFS.

Regulations proposed by the Council to implement this amendment are scheduled to be published within 15 days.

List of Subjects in 50 CFR Part 625

Fisheries, Reporting and recordkeeping requirements.

Dated: July 28, 1992.

Joe P. Clem,

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

[FR Doc. 92–18194 Filed 7–28–92; 2:34 pm]
BILLING CODE 3510–22–M

Notices

Federal Register
Vol. 57, No. 149
Monday, August 3, 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

Animal and Plant Health Inspection Service

[Docket No. 92-065-1]

Advisory Committee on Foreign Animal and Poultry Diseases; Notice of Renewal

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: We are giving notice that the Secretary of Agriculture has renewed the Secretary's Advisory Committee on Foreign Animal and Poultry Diseases (Committee) for a two-year period. The Secretary has determined that the Committee is necessary and in the public interest.

FOR FURTHER INFORMATION CONTACT: Dr. M.A. Mixson, Chief Staff Veterinarian, Emergency Programs Staff, VS, APHIS, USDA, room 747, Federal Building, 6505 Belcrest Road, Hyattsville, MD 29782, (301) 436-8073.

SUPPLEMENTARY INFORMATION: The purpose of the Committee is to advise the Secretary regarding program operations and measures to suppress, control, or eradicate an outbreak of foot-and-mouth disease, or other destructive foreign animal or poultry diseases, in the event these diseases should enter the United States. The Committee also advises the Secretary of Agriculture of means to prevent these diseases.

Done in Washington, DC, this 22nd day of July 1, 1992.

Charles R. Hilty,

Assistant Secretary for Administration.

[FR Doc. 92-18216 Filed 7-31-92; 8:45 am]

BILLING CODE 3410-34-M

[Docket No. 92-064-1]

National Animal Damage Control Advisory Committee; Notice of Renewal

AGENCY: U.S. Department of Agriculture (USDA).

ACTION: Notice.

SUMMARY: We are giving notice that the Secretary of Agriculture has renewed the National Animal Damage Control Advisory Committee (Committee) for a two-year period. The Secretary has determined that the Committee is necessary and in the public interest.

FOR FURTHER INFORMATION CONTACT: Bill Clay, Director, Operational Support Staff, ADC, APHIS, USDA, room 821, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436-8281.

SUPPLEMENTARY INFORMATION: The purpose of the Committee is to advise the Secretary concerning policies, program issues, and research needed to conduct the Animal Damage Control program. The Committee also serves as a public forum enabling those affected by the Animal Damage Control program to have a voice in the program's policies.

Done in Washington, DC, this 22nd day of July, 1992.

Charles R. Hilty,

Assistant Secretary for Administration.

[FR Doc. 92-18217 Filed 7-31-92; 8:45 am]

BILLING CODE 3410-34-M

Cooperative State Research Service

Committee of Nine; Meeting

In accordance with the Federal Advisory Committee Act of October 6, 1972, (Pub. L. 92-463, 86 Stat. 770-776), the Cooperative State Research Service announces the following meeting:

Name: Committee of Nine.

Date and Time: September 10, 1992, 8:30 a.m.-5 p.m.; September 11, 1992, 8:30 a.m.-1 p.m.

Place: Room 215 Coffey Hall, Twin City Campus, 1420 Eckles Avenue, University of Minnesota, St. Paul, Minnesota 55108.

Type of Meeting: Open to the public. Persons may participate in the meeting as time and space permit.

Comments: The public may file written comments before or after the meeting with the contact person listed below.

Purpose: To evaluate and recommend proposals for cooperative research on problems that concern agriculture in two or more States, and to make recommendations for allocation of regional research funds appropriated by Congress under the Hatch Act for research at the State Agricultural Experiment Stations.

Contact Person for Agenda and More Information: Dr. Chauncey Ching Executive Secretary, U.S. Department of Agriculture, Cooperative State Research Service, Room 346, Aerospace Building, Washington, DC 20250, Telephone: 202-401-6040.

Done at Washington, DC, this 22d day of July, 1992.

Clare I. Harris,

Associate Administrator, Cooperative State Research Service.

[FR Doc. 92-18218 Filed7-31-92; 8:45 am]

BILLING CODE 3410-22-MT

Federal Grain Inspection Service

Designation of the Fremont (NE) and Titus (IN) Agencies

AGENCY: Federal Grain Inspection Service (FGIS).

ACTION: Notice.

SUMMARY: FGIS announces the designation of Fremont Grain Inspection Department, Inc. (Fremont), and Titus Grain Inspection, Inc. (Titus) to provide official inspection services under the United States Grain Standards Act, as amended (Act).

EFFECTIVE DATE: September 1, 1992.

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

FOR FURTHER INFORMATION CONTACT: Homer E. Dunn, telephone 202-720-8525.

SUPPLEMENTARY INFORMATION:

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

In the March 2, 1992, **Federal Register** (57 FR 7360), FGIS announced that the designations of Fremont and Titus end on August 31, 1992, and asked persons

interested in providing official services within the specified geographic areas to submit an application for designation. Applications were due by April 1, 1992.

There were three applicants: Fremont applied for the entire area currently assigned to them, except for Juergens Produce and Seed, and Farmers Grain and Lumber Company, located in Carroll, Carroll County, Iowa (in Central Iowa Grain Inspection Service's, Inc. (Central Iowa) area); Central Iowa, a currently designated agency, applied for Juergens Produce and Seed, and Farmers Grain and Lumber Company, located in Carroll, Carroll County, Iowa; and Titus applied for the entire geographic area currently assigned to them. FGIS named and requested comments on the applicants for designation in the May 1, 1992, **Federal Register** (57 FR 18863). Comments were due by June 15, 1992. FGIS received one comment regarding the cost of the inspection services provided by Fremont. FGIS received no comments on Titus by the deadline.

FGIS evaluated all available information regarding the designation criteria in Section 7(f)(1)(A) of the Act; and according to Section 7(f)(1)(B), determined that Fremont, Central Iowa, and Titus are able to provide official services in the geographic areas for which they applied.

Effective September 1, 1992, and ending August 31, 1995, Fremont and Titus are designated to provide official inspection services in the geographic areas specified above. Effective September 1, 1992, and ending August 31, 1993, Central Iowa is designated to provide official inspection services at Juergens Produce and Seed, and Farmers Grain and Lumber Company, located in Carroll, Carroll County, Iowa, in addition to the area they are already designated to serve.

Interested persons may obtain official services by contacting Fremont at 402–721–1270, Titus at 317–497–2202, and Central Iowa at 515–266–1101.

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

Dated: July 14, 1992

E. James Williams

Acting Director, Compliance Division

[FR Doc. 92–17342 Filed 7–31–92; 8:45 am]

BILLING CODE 3410–EN–F

Request for Applications from Persons Interested in Designation to Provide Official Services in the Geographic Area Presently Assigned to the Farwell (TX) Agency

AGENCY: Federal Grain Inspection Service (FGIS).

ACTION: Notice.

SUMMARY: The United States Grain Standards Act, as amended (Act), provides that official agency designations shall end not later than triennially and may be renewed. The designation of Farwell Grain Inspection, Inc. (Farwell), will end January 31, 1993, according to the Act, and FGIS is asking persons interested in providing official services in the specified geographic area to submit an application for designation.

DATES: Applications must be postmarked or sent by telecopier (FAX) by September 2, 1992.

ADDRESSES: Applications must be submitted to Homer E. Dunn, Chief, Review Branch, Compliance Division, FGIS, USDA, Room 1647 South Building, P.O. Box 96454, Washington, DC 20090–6454. Telecopier (FAX) users may send applications to the automatic telecopier machine at 202–720–1015, attention: Homer E. Dunn. If an application is submitted by telecopier, FGIS reserves the right to request an original application. All applications will be made available for public inspection at this address located at 1400 Independence Avenue, S.W., during regular business hours.

FOR FURTHER INFORMATION CONTACT: Homer E. Dunn, telephone 202–720–8525.

SUPPLEMENTARY INFORMATION:

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

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

FGIS designated Farwell, headquartered in Farwell, Texas, to provide official grain inspection services under the Act on February 1, 1990.

Section 7(g)(1) of the Act provides that designations of official agencies shall end not later than triennially and may be renewed according to the criteria and procedures prescribed in Section 7(f) of the Act. The designation of Farwell ends on January 31, 1993.

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

In New Mexico: Bernalillo, Chaves, Curry, DeBaca, Eddy, Guadalupe, Lea, Quay, Roosevelt, San Miguel, Santa Fe, Torrance, and Union Counties; In Texas: Bailey, Deaf Smith (west of State Route 214), Lamb (south of U.S. Route 70 and west of FM 303), and Parmer Counties.

Interested persons, including Farwell, are hereby given the opportunity to apply for designation to provide official services in the geographic area specified above under the provisions of Section 7(f) of the Act and section 800.196(d) of the regulations issued thereunder. Designation in the specified geographic area is for the period beginning February 1, 1993, and ending January 31, 1996. Persons wishing to apply for designation should contact the Compliance Division at the address listed above for forms and information.

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

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

Dated: July 14, 1992

E. James Williams

Acting Director, Compliance Division

[FR Doc. 92–17343 Filed 7–31–92; 8:45 am]

BILLING CODE 3410–EN–F

Request for Comments on the Applicants for Designation in the Geographic Areas Currently Assigned to the Amarillo (TX) Agency, and the State of Wisconsin (WI)

AGENCY: Federal Grain Inspection Service (FGIS).

ACTION: Notice.

SUMMARY: FGIS requests interested persons to submit comments on the applicants for designation to provide official services in the geographic areas currently assigned to the Amarillo Grain Exchange, Inc. (Amarillo), and the Wisconsin Department of Agriculture, Trade and Consumer Protection (Wisconsin).

DATES: Comments must be postmarked, or sent by telecopier (FAX) or electronic mail by September 2, 1992.

ADDRESSES: Comments must be submitted in writing to Homer E. Dunn, Chief, Review Branch, Compliance Division, FGIS, USDA, Room 1647 South Building, P.O. Box 96454, Washington, DC 20090–96454. SprintMail users may respond to [A:ATTMAIL,O:USDA,ID:A36HDUNN]. ATTMAIL and FTS2000MAIL users may respond to !A36HDUNN. Telecopier

(FAX) users may send responses to the automatic telecopier machine at 202–720–1015, attention: Homer E. Dunn. All comments received will be made available for public inspection at the above address located at 1400 Independence Avenue, S.W., during regular business hours.

FOR FURTHER INFORMATION CONTACT: Homer E. Dunn, telephone 202–720–8525.

SUPPLEMENTARY INFORMATION:

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

In the June 1, 1992, **Federal Register** (57 FR 23075), FGIS asked persons interested in providing official services in the Amarillo and Wisconsin geographic areas to submit an application for designation. Applications were due by July 1, 1992. There were three applicants: Amarillo, Wisconsin, and Mid-Iowa Grain Inspection, Inc. (Mid-Iowa). Amarillo and Wisconsin each applied for designation to serve the entire area currently assigned to them. Mid-Iowa, a designated official agency adjacent to Wisconsin, applied for designation to serve the portion of the Wisconsin area bordered on the North by Interstate 90, on the East and South by Highway 27, and on the west by the Mississippi River, and would accept any portion of this area.

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

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

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

Dated: July 14, 1992

E. James Williams

Acting Director, Compliance Division

[FR Doc. 92–17344 Filed 7–31–92; 8:45 am]

BILLING CODE 3410–EN–F

Forest Service

Exemption of the Soldier Divide Timber Salvage Project, Boise National Forest, ID

AGENCY: Forest Service, USDA.

ACTION: Notice of exemption from appeal.

SUMMARY: This is notification that timber salvage harvest and reforestation activities to recover and rehabilitate natural resources from recent insect epidemics on the Soldier Divide project area, Mountain Home Ranger District, Boise National Forest, are exempt from appeal in accordance with 36 CFR 217.4(a)(11).

DATES: Effective on August 3, 1992.

FOR FURTHER INFORMATION CONTACT: Steve Williams, Timber Management Assistant, Mountain Home Ranger District, Boise National forest, 2180 American Legion Boulevard, Mountain Home, ID 83647, Telephone: 208–587–7961.

SUPPLEMENTAL INFORMATION: Several years of drought in southwest Idaho have reduced soil moisture and weakened conifer trees. Consequently, Douglas-fir tussock moth, and bark beetle populations have dramatically increased and reached epidemic levels on the Boise National Forest. It is estimated that more than 400,000 trees larger than 12 inches in diameter have died on the Forest as a result of insect damage since 1986.

As part of the effort to recover and rehabilitate natural resources damaged by the insect epidemic, Mountain Home Ranger District personnel have developed a proposal to harvest dead and dying timber, and reforest damaged acres. The Forest Service has completed the Soldier Divide Timber Salvage Environmental Assessment (EA), identified issues, developed alternatives, and analyzed the effects of implementing timber salvage and other recovery activities.

The analysis area for the Soldier Divide Timber Salvage EA is located 60 miles northeast of Mountain Home, Idaho. The Forest will salvage dead and dying trees scattered throughout the 21,800-acre project area and recover approximately 11–15 million board feet (MMbf). The Soldier Divide project will harvest only dead and dying trees using the helicopter logging system. Cutting areas average less than three acres in size and will not exceed 20 acres. Cutover areas greater than 10 acres will be replanted, and smaller areas may be replanted depending on accessibility. Natural regeneration will be used to reforest smaller areas.

There is no road construction or reconstruction proposed for the salvage operations. Helicopter landings will be constructed or reconstructed along existing roads. Management direction for the Soldier Divide project area is established in the Boise National Forest Land and Resource Management Plan (Forest Plan). The Forest Plan (specifically Management Areas 3, 7, and 9) provides for the removal of salvage timber from lands within the project areas. In addition, the Forest Plan prescribes standards to protect soil, water, wildlife, visual, and other onsite resources. The proposed action for the Soldier Divide project is consistent with standards and guidelines, objectives, and direction contained in the Forest Plan.

The Soldier Divide project includes a 13,400-acre portion of the Lime Creek Roadless Area and a 4,300-acre portion of the South Boise/Yuba Roadless Area. The portions of both areas which are within the project area have been allocated to commercial timber production as well as other multiple uses by the Forest Plan. Approximately 8 MMbf would be harvested from the roadless areas using helicopter logging. Landings would be constructed adjacent to existing roads.

Forest Pest Management Specialists and District Foresters have analyzed the insect situation and have found no economical or practical means to control the insect epidemic. Although salvage harvesting and reforestation will not control the epidemic, these activities will: (1) Recover valuable timber that would otherwise deteriorate, and (2) reforest those areas that have been left without tree cover as a result of the insect-caused mortality. It is extremely important to remove the dead and dying timber prior to deterioration and subsequent value losses. Through the timber salvage operations, breeding insects (principally bark beetles) can be removed in the logs and Knutson-Vandenburg (K–V) funds can be generated for use to restore forest resources that have been damaged by the insect epidemic.

The Forest Supervisor has determined through preliminary scoping and environmental analysis that there is justification to expedite this project.

The decision for the Soldier Divide project will be implemented after publication of this notice in the **Federal Register**. If the project is delayed because of an appeal (delays of up to 150 days are possible), it is likely that the salvage harvest could not be implemented during the 1992 normal operating season. This would result in a

loss of volume and value of the timber due to deterioration. The total estimated value of the merchantable dead and dying timber is $375,000 to $525,000. Of this, approximately $93,750 or more would be returned to counties from 25 percent fund receipts. Delays resulting from appeals could cause the loss of up to half of this value and potentially make the salvage sale unattractive to timber purchasers. This would jeopardize the objectives of the recovery and rehabilitation project.

Pursuant to 36 CFR 217.4(a)(11), it is my decision to exempt the Soldier Mountain Salvage and Recovery Project, Mountain Home Ranger District, Boise National Forest, from appeal. The environmental assessment discloses the effects of the proposed actions on the environment and addresses issues resulting from the proposal.

Dated: July 28, 1992.

Robert C. Joslin,

Deputy Regional Forester, Intermountain Region, USDA Forest Service.

[FR Doc. 92-18267 Filed 7-31-92; 8:45 am]

BILLING CODE 3410-11-M

[3410-11]

Exemption

AGENCY: Forest Service, USDA.

ACTION: Notice of exemption from appeal; Doublehead Ranger District, Modoc National Forest.

SUMMARY: The Forest Service is exempting from appeal the decision resulting from the Timber Mountain Salvage analysis. This environmental analysis is being prepared in response to the severe timber mortality in the Timber Mountain Compartment on the Doublehead Ranger District, Modoc National Forest. The unusual mortality is being caused by drought, related insect infestation and fire.

There are currently higher than normal levels of tree mortality occurring on the Doublehead Ranger District as a result of five consecutive years of below normal precipitation. The Doublehead Ranger District is proposing tractor, shear and/or helicopter harvest of 1.0 million board feet (MMBF) over 3,000 acres in the Timber Mountain Salvage analysis. No new road construction is planned in any of the analysis area. There will be a minor amount of road reconstruction. The area is primarily within Management Area 64 (Mears), with a small portion within Management Area 63 (Tionesta), as delineated by the Modoc National Forest Land and Resource Management Plan.

The drought has caused a high degree of stress within the trees, which reduces their natural defense mechanisms and weakens them to the extent that they are now predisposed to attack by black pineleaf scale bark beetles and other endemic pathogens. Trees killed by insect attack deteriorate very rapidly.

Prompt removal of the dead and dying timber minimizes value and volume loss. Any unnecessary delays of the proposed salvage sales could delay harvesting until the 1993 logging season which could decrease the value by as much as $280,000. In addition, excessive number of dead trees produce heavy fuel concentrations, which makes wildfire control extremely difficult.

The increased threat of wildfire also increases the health and safety risks to private property owners living adjacent to the Timber Mountain Area, threatens over $3 million worth of electronic site equipment and Forest Service improvements.

The decisions for the proposed projects are scheduled to be issued in mid-August 1992. If projects are delayed because of appeals (delays can be up to 100 days, with an additional 15–20 days for discretionary review by the Chief of the Forest Service), it is likely that the projects could not be implemented this field season. This would result in the substantial monetary loss from timber values forgone. It would also continue the unacceptable threat to the health and safety of local property owners, as well as the protential loss of electronic site equipment and Forest Service improvements.

Pursuant to 36 CFR 217.4(a)(11), it is my decision to exempt from appeal the decisions relating to the harvest and restoration of lands affected by drought, pest infestation induced timber mortality, and wildfire in the Timber Mountain Compartment of the Doublehead Ranger District, Modoc National Forest. The environmental document being prepared will address the effects of the proposed actions on the environment, will document public involvement, and will address the issues raised by the public.

Revised 36 CFR part 217 appeal regulations are currently being proposed. Project decisions made after revised regulations become effective would be subject to those revised regulations. This would mean that there is the possibility that some of the proposed projects would require a new notice in the Federal Register.

EFFECTIVE DATE: This decision is effective August 3, 1992.

FOR FURTHER INFORMATION CONTACT: Questions about this decision should be addressed to Ed Whitmore, Timber Management Staff Director, Pacific Southwest Region, USDA Forest Service, 630 Sansome Street, San Francisco, CA 94111, (415) 705-2842, or to Diane K. Henderson, Acting Forest Supervisor, Modoc National Forest, 441 N. Main St., Alturas, CA 96101, (916) 233-5811.

ADDITIONAL INFORMATION: The environmental analyses for this proposal will be documented in the Timber Mountain Salvage environmental document. A public involvement notice was published in the Modoc Record on April 23, 1992 (Alturas, CA) and in the Herald and New (Klamath Falls, OR) on April 28, 1992 to determine the issues to be addressed in the environmental analyses. Additionally, letters were mailed to representatives of various environmental groups, timber industry, and the interested publics on the Doublehead Ranger District mailing lists in order to provide information on the projects and to generate public issues and concerns. Meetings have also been held with local property owners and interested Native American groups. The project files and related maps are available for public review at the Doublehead Ranger District, P.O. Box 369, Tulelake, CA 96134.

The mortality presently occurring in the Timber Mountain Compartment involves approximately 3,000 acres. An associated 1.0 MMBF, is presently being analyzed for the in one sale. The value to the Forest Service of the salvage volume is estimated at $280,000. This figure does not include the many jobs and thousands of dollars in benefits that are realized in related service, supply, and construction industries. Modoc County will share 25% of the selling value for any of the timber that is salvaged in a commercial timber sale. Rehabilitation and restoration measures will be necessary for wildlife protection, erosion prevention and fuels reduction.

The proposals are not expected to adversely affect snag or old-growth dependent wildlife species. Initial review indicates that post-harvest snag numbers will approximate the Forest Plan Standard and Guideline of 1.5 snags per acre. No Wild and Scenic rivers, wetlands, wilderness areas, or roadless areas are within the proposed project areas.

Dated: July 27, 1992.

Dale N. Bosworth,

Reviewing Officer, Deputy Regional Forester.

[FR Doc. 92-18250 Filed 7-31-92; 8:45 am]

BILLING CODE 3410-11-M

[3410-11]

Exemption

AGENCY: Forest Service, USDA.

ACTION: Notice of exemption from appeal, Tule River Ranger District, Sequoia National Forest.

SUMMARY: The Forest Service is exempting from appeal any decision related to the harvest and restoration of lands affected by drought-induced timber mortality in the Middle Fork and North Fork of the Middle Fork of the Tule River watershed, and specifically the proposed Pocket Helicopter Insert Salvage Sale. A supplement to the 1990 Drought-Related Insect Salvage Sales Environmental Assessment is being prepared in response to continuing timber mortality in the Tule River watershed. The unusual mortality is being caused by drought and related insect infestation.

The proposed Pocket Helicopter Insect Salvage Timber Sale is within the Middle Fork and North Fork of the Middle Fork of the Tule River watershed and one mile north of the Camp Nelson community.

There are currently higher than normal levels of tree mortality, especially ponderosa and sugar pine, occurring throughout the Sequoia National Forest as a result of six consecutive years of below normal precipitation. The Tule River District is proposing helicopter and tractor harvest of 1,000 MBF on 2000 acres within the proposed Pocket Helicopter Insect Salvage Timber Sale. No new road construction or landing construction is required. Existing roads and landings will be used. All areas are within the General Forest Zone as delineated by the Sequoia National Forest Land and Resource Management Plan.

The drought has caused a high degree of stress within the trees, which reduces their natural defense mechanisms and weakens them to the extent that they are now predisposed to attack by bark and engraver beetles. Trees killed by insect attack deteriorate very rapidly (species affected within the sale area are comprised of 85% pine and 15% fir).

Prompt removal of the dead and dying timber minimizes value and volume loss. Any delay of the harvest of the proposed salvage sale until the 1993 logging season could decrease the value by as much as $150,000. Prompt removal of the dead and dying timber minimizes losses due to deterioration. In addition, excessive numbers of dead trees produce heavy fuel concentrations, which makes wildfire control extremely difficult.

The decision for the proposed project is scheduled to be issued in August 1992.

Purusant to 36 CFR 217.4(a)(11), I have determined that good cause exists to exempt from appeal any decision relating to the harvest and restoration of lands affected by drought-induced timber mortality in the Middle Fork and North Fork of the Middle Fork of the Tule River watershed. The environmental document being prepared will address the effects of the proposed actions on the environment, will document public involvement and will address the issues raised by the public.

EFFECTIVE DATE: This decision is effective August 3, 1992.

FOR FURTHER INFORMATION CONTACT: Questions about this decision should be addressed to Ed Whitmore, Timber Management Staff Director, Pacific Southwest Region, Forest Service, USDA, 630 Sansome Street, San Francisco, CA 94111, (415) 705-2648; or to Sandra H. Key, Forest Supervisor, Sequoia National Forest, 900 West Grand Avenue, Porterville, CA 93257, (209) 784-1500.

ADDITIONAL INFORMATION: The environmental analysis for this proposal will be documented in the Tule River District Drought Related Insect Salvage Sales environmental document, supplement I. Pursuant to 40 CFR 1501.7, scoping was conducted by the Tule River District Ranger to determine the issues and concerns to be addressed in the supplement. Letters were mailed to various agencies, permittees, environmental organizations, timber industry, local private property owners, and others known to be interested. Copies of the scoping letters and responses are on file at the District office. The environmental document and related map will be available for public review at the Tule River Ranger District Office, 32588 Highway 190, Springville, California 93265.

The catastrophic damage presently occurring in the proposed Pocket Helicopter Insect Salvage Timber Sale involves approximately 2,000 acres and 1.0 million board feet. The value to the Forest Service of the salvage volume is estimated at $150,000. This figure does not include the many jobs and thousands of dollars in benefits that are realized in related service, supply, and construction industries. Tulare County will share in 25% of the selling value for any of the timber that is salvaged in a commercial timber sale. Rehabilitation and restoration measures will be necessary for watershed protection, erosion prevention, and fuels reduction.

The proposal is not expected to adversely affect snag-dependent wildlife species. Snag surveys indicate that post-harvest snag numbers will meet or exceed the Forest Plan Standard and Guidelines of 1.5 snags per acre and Regional Guidelines of three to four snags per acre in suitable owl habitat. No wild and scenic rivers, wetlands, wilderness areas, roadless areas, or threatened/endangered species are within the proposed project area.

Dated: July 27, 1992.

Dale N. Bosworth,

Reviewing Officer, Deputy Regional Forester.

[FR Doc. 92-18258 Filed 7-31-92; 8:45 am]

BILLING CODE 3410-11-M

[3410-11]

Exemption

AGENCY: Forest Service, USDA.

ACTION: Notice of exemption from appeal; Greenhorn Ranger District, Sequoia National Forest.

SUMMARY: The Forest Service is exempting from appeal any decision resulting from the proposed Alta Sierra Helicopter Insect Salvage Sale environmental analysis. The environmental analysis is being prepared in response to severe timber mortality in the Greenhorn Mountain area of the Sequoia National Forest. Unusual mortality is being caused by drought and related insect infestation. The proposed Alta Sierra Helicopter Insect Salvage analysis area is within the Ice House Creek, Shirley Creek, Tillie Creek, Cedar Creek, and Woodward Creek watersheds, and is adjacent to the community of Alta Sierra. The analysis area is approximately 30 miles east of Bakersfield, California.

There are currently higher than normal levels of tree mortality occurring throughout the Sequoia National Forest as a result of six consecutive years of below normal precipitation. The Forest is proposing to harvest approximately .75 million board feet (MMBF) utilizing helicopter yarding, on approximately 3,200 acres in the proposed Alta Sierra Helicopter Insect Salvage analysis area. No new road construction is planned. Some very minor road reconstruction may be required. There will be no harvest in any California spotted owl designated Spotted Owl Habitat (SOHA, however, a small portion of the analysis area is adjacent to the Sunday Peak, SOHA. The analysis area is within two separate emphasis areas as delineated by the Sequoia National Forest Land Management Plan. The two emphasis areas are developed recreation and

sawtimber. An important analysis feature is reducing the fire hazard to the private homes situated in the general vicinity of proposed project area.

The drought has caused a high degree of stress within the trees which reduces their natural defense mechanisms and weakens them to the extent that they are now predisposed to attack by bark and engraver beetles. Trees killed by insect attack deteriorate very rapidly. This has been accelerated by the last six years of drought. The Greenhorn District has experience with trees deteriorating within six months after the tree has started to fade from insect infestation, rendering the tree unutilizable for sawtimber.

Prompt removal of the dead and dying timber minimizes value and volume loss. Excessive numbers of dead trees can lead to heavy fuel concentrations, making wildfire control extremely difficult, thereby resulting in an increased wildfire threat to the community of Alta Sierra and a monetary loss for the proposed Alta Sierra Helicopter Insect Salvage Sale.

The decision for the proposed project is expected to be used in August 1992.

Summary—Conclusion

Pursuant to 36 CFR 217.4(a)(11), I have determined that good cause exists to exempt from appeal any decision relating to the harvest and restoration following drought-induced timber mortality in the Ice House Creek, Shirley Creek, Tillie Creek, Cedar Creek, and Woodward Creek watersheds, Greenhorn Ranger District, Sequoia National Forest. An environmental document under preparation will address the effects of the proposed action on the environment, will document public involvement, and will address the issues raised by the public.

EFFECTIVE DATE: This decision will be effective August 3, 1992.

Agency Contacts

FOR FURTHER INFORMATION CONTACT: Questions about this decision should be addressed to Ed Whitmore, Timber Management Staff Director, Pacific Southwest Region, Forest Service, USDA, 630 Sansome Street, San Francisco, CA 94111, (415) 705–2648, or Sandra H. Key, Forest Supervisor, Sequoia National Forest, 900 W. Grand Avenue, Potterville, CA 93257, (209) 784–1500.

Additional Information

The environmental analysis for this proposed salvage sale will be documented in the Alta Sierra Helicopter Insect Salvage Environmental Assessment. In June and July of 1992, pursuant to 40 CFR 1501.7, scoping will be conducted by the Greenhorn District Ranger to determine the issues to be addressed in the environmental analysis. Additionally, letters were mailed to over 200 local residents, representatives of various environmental groups, and the timber industry, to provide information on the project and to generate public issues and concerns. The Forest is expected to complete the environmental documentation in August 1992. The environmental document and related maps will be available for public review at the Greenhorn Ranger Station, 15701 Highway 178, Bakersfield, CA 93386, and at the Supervisors Office, Sequoia National Forest, 900 W. Grand Avenue, Poterville, CA 93257.

The catastrophic damage presently occurring in the Ice House Creek, Shirley Creek, Cedar Creek, Woodward Creek and Tillie Creek watersheds, covers over 3,200 acres of National Forest land on the Greenhorn Ranger District of the Sequoia National Forest. Within this area approximately 750 acres, with an associated .75 MMBF, is presently being analzyed for salvage because the percentages of dead and dying timber is highest in these areas. The value to the Forest Service of the salvage volume is estimated at $90,000. This figure does not include the many jobs and thousands of dollars in benefits that are realized in related service, supply, and construction industries. Kern County will share 25% of the selling value for any timber that is salvaged in a commercial timber sale.

The proposal is not expected to adversely affect snag dependent wildlife species. Initial review indicates that post-harvest snag numbers will meet or exceed Forest Plan Standard and Guidelines of 1.5 snags per acre. Preliminary scoping for the Alta Sierra Helicopter Insect Salvage analysis indicates land owners and the local residents would like to see the dead and dying trees removed as soon as practical for fire hazard reduction purposes. Only trees which are dead or will be dead within six months will be harvested. There will be no harvest from this sale within any California Spotted Owl Habitat Areas (SOHA). No Wild and Scenic rivers, wetlands, wilderness areas, or threatened/endangered species are within the proposed project area.

Dated: July 27, 1992.

Dale N. Bosworth,

Reviewing Officer, Deputy Regional Forester.

[FR Doc. 92–18248 Filed 7–31–92; 8:45 am]

BILLING CODE 3410–11–M

Office of International Cooperation and Development

Nitrogen Fixing Tree Association; Agreement

AGENCY: Office of International Cooperation and Development (OICD), USDA.

ACTION: Notice of intent.

ACTIVITY: OICD intends to enter into an agreement with the Nitrogen Fixing Tree Association (NFTA) to support expenses for a workshop on "Erythrina in the New and Old Worlds."

AUTHORITY: Section 1458 of the National Agricultural Research, Extension and Teaching Policy Act of 1977, as amended (7 U.S.C. 3291), and the Food Security Act of 1985 (Pub. L. 99–198).

OICD announces the availability of funds in fiscal years 1992 and 1993 (FY 1992 and FY 1993) to enter into an agreement with NFTA to hare preparation, travel, per diem and publication expenses for a workshop on "Erythrina in the New and Old Worlds." This workshop will be held at the Centro Agronomico Tropical de Investigacion Y Ensenaza (CATIE) headquarters in Turrialba, Costa Rica, in October 1992. Approximately $25,000 will be made available to NFTA as partial support for the workshop.

Based on the above, this is not a formal request for application. As estimated $12,500 will be available in FY 1992 to support this work. It is anticipated that an additional $12,500 will be provided in FY 1993, subject to the availability of federally appropriated funds in FY 1993.

Information on proposed Agreement may be obtained from: USDA/OICD/Admin Services, 0324 South Bldg, Washington DC 20250–4300.

Dated: July 29, 1992.

Nancy J. Croft,

Contracting Officer.

[FR Doc. 92–18295 Filed 7–31–92; 8:45 am]

BILLING CODE DP–3410–M

DEPARTMENT OF COMMERCE

Agency Form Under Review by the Office of Management and Budget

DOC has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: National Oceanic and Atmospheric Administration.

Title: Coastal Zone Management Program Administration Grants.

Agency Form Number: None.

OMB Number: 0648–0119.

Type of Request: Extension of a currently approved collection.

Burden: 4,333 hours.

Number of Respondents: 35 (11 responses per respondent).

Avg. Hours Per Response: 11.25 hours.

Needs and Uses: Coastal zone management grants provide funds to states and territories to implement federally–approved coastal zone management plans and develop assessment documents and multi–year strategies. Information is used to determine if activities achieve national coastal management and enhancement objectives and if states are adhering to their approved plans.

Affected Public: State or local governments.

Frequency: Quarterly, semi–annually, annually.

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

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

Copies of the above information collection proposal can be obtained by calling or writing Edward Michals, DOC Forms Clearance Officer, (202) 377–3271, Department of Commerce, Room 5327, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

Written comments and recommendations for the proposed information collection should be sent to Ron Minsk, OMB Desk Officer, Room 3019, New Executive Office Building, Washington, D.C. 20503.

Dated: July 28, 1992

Edward Michals,

Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 92–18261 Filed 7–31–92; 8:45 am]

BILLING CODE 3510–CW–F

Agency Form Under Review by the Office of Management and Budget (OMB)

DOC has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Agency: International Trade Administration.

Title: Commercial News USA Reader Survey.

Form numbers: Agency—ITA 4116P, OMB ____.

Type of request: New.

Burden: 3,000 Respondents; 1,500 reporting hours.

Average hours per respondent: 30 minutes.

Needs and uses: This collection allows the International Trade Administration to assist U.S. exporters by providing information about the audience reached by the publication Commercial News USA. Commercial News USA is a unique export promotion service for U.S. manufacturers, service firms, and publishers of trade and technical literature. This survey will collect information about the needs and interests of readers of Commercial News USA. The information will be used for program evaluation and as a source of demographic information about readers that will be made available to potential Commercial New USA participants.

Affected public: Businesses or other for-profit organizations; small, medium, and large businesses and organizations.

Frequency: Occasionally.

Respondent's obligation: Voluntary.

OMB desk officer: Gary Waxman, 202–395–7340.

Copies of the above information collection proposal can be obtained by calling or writing DOC Clearance Officer, Edward Michals, (202) 377–3271, Department of Commerce, room 5327, 14th and Constitution Avenue, NW., Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent to Gary Waxman, OMB Desk Officer, Room 3208, New Executive Office Building, Washington, DC 20503

Dated: July 28, 1992.

Edward Michals,

Departmental Clearance Officer, Office of Management & Organization.

[FR Doc. 92–18263 Filed 7–31–92; 8:45 am]

BILLING CODE 3510–CW–M

Foreign-Trade Zones Board

[Order No. 590]

Resolution and Order Approving the Application of the City and County of Denver, Colorado for Special-Purpose Subzone Status Storage Technology Corporation Plant (Electronic Information Storage and Printing Equipment) Boulder County, CO

Proceedings of the Foreign-Trade Zones Board, Washington, DC

Resolution and Order

Pursuant to the authority granted in the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board (the Board) adopts the following Resolution and Order:

The Board, having considered the matter, hereby orders:

After consideration of the application of the City and County of Denver, Colorado, grantee of FTZ 123, filed with the Foreign-Trade Zones Board (the Board) on June 12, 1991, and amended on January 24, 1992, requesting special-purpose subzone status at the electronic information storage and printing equipment manufacturing facilities (4 sites) of Storage Technology Corporation, in Boulder County, Colorado, the Board, finding that the requirements of the Foreign-Trade Zones Act, as amended, and the FTZ Board's regulations are satisfied, and that the proposal is in the public interest, approves the application.

Approval is subject to the FTZ Act and the FTZ Board's regulations (as revised, 56 FR 50790–50808, 10/8/91), including § 400.28. The Secretary of Commerce, as Chairman and Executive Officer of the Board, is hereby authorized to issue a grant of authority and appropriate Board Order.

Grant of Authority for Subzone Status; Storage Technology Corp., Boulder County, CO

Whereas, by an Act of Congress approved June 18, 1934, an Act "To provide for the establishment * * * of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes," as amended (19 U.S.C. 81a–81u) (the Act), the Foreign-Trade Zones Board (the Board) is authorized to grant to corporations the privilege of establishing foreign-trade zones in or adjacent to U.S. Customs ports of entry;

Whereas, the Board's regulations (15 CFR part 400) provide for the establishment of special-purpose subzones when existing zone facilities cannot serve the specific use involved;

Whereas, the City and County of Denver, Colorado, grantee of FTZ 123, has made application (6–12–91, FTZ Docket 35–91, 56 FR 28862, 6–25–91) to the Board for authority to establish a special-purpose subzone at the electronic information storage and printing equipment manufacturing facilities of Storage Technology Corporation, in Boulder County, Colorado;

Whereas, notice of said application has been given in the **Federal Register** and public comment has been invited; and,

Whereas, the Board has found that the requirements of the Act and the Board's regulations are satisfied and that approval of the application is in the public interest;

Now, therefore, the Board hereby authorizes the establishment of a subzone at Storage Technology Corporation's facilities (4 sites) in Boulder County, Colorado, designated

on the records of the Board as Foreign-Trade Subzone 123A, at the locations described in the application, subject to the Act and the Board's Regulations (as revised, 56 FR 50790–50808, 10/8/91), including § 400.28

Signed at Washington, DC, this 23rd day of July 1992, pursuant to Order of the Board.

Alan M. Dunn,

Assistant Secretary of Commerce for Import Administration, Chairman, Committee of Alternates, Foreign-Trade Zones Board.

Attest:

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 92–18256 Filed 7–31–92; 8:45 am]

BILLING CODE 3510–DS–M

[Docket 25–92]

Foreign-Trade Zone 119—Minneapolis/St. Paul, MN, Application for Subzone, Wirsbo Company (Polyethylene Tubing Plant), Apple Valley, MN

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the Greater Metropolitan Area Foreign-Trade Zone Commission, grantee of FTZ 119, Minneapolis/St. Paul area, requesting special-purpose subzone status for the polyethylene tubing manufacturing plant of Wirsbo Company (Wirsbo) (a subsidiary of Uponor Group, Finland), located in Apply Valley, Minnesota. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR part 400). It was formally filed on July 21, 1992.

The Wirsbo plant (10.5 acres/60,000 sq.ft/47 employees) is located at 5925 148th Street West in Apple Valley (Dakota County), approximately 15 miles south of Minneapolis. It is used to produce cross-linked polyethylene (PEX) tubing for floor-installed hydronic radiat residential/industrial heating systems. The production process involves mixing and heating powdered polyethylene resin with certain chemicals. The viscous compound is then extruded into tubing (HTSUS# 3917.32.0020–4; duty rate: 3.1 percent). Foreign-origin materials used in the process include polyethylene (HTSUS# 3901.10.00 and 3901.20.00; duty rate: 12.5%) and polyvinyl alcohol foil (HTSUS# 3921.19.00, 6.6%). According to the applicant, total U.S. value added is about 70 percent. Some 30 percent of the finished tubing is exported, and PEX tubing sold in the U.S. market will displace company imports. The plant will also be used as a distribution site for such other foreign heating system parts/materials as thermostats, brass fittings, and aluminum pipe.

Zone procedures would exempt Wirsbo from Customs duty payments on foreign materials used in products made for export. On its domestic sales, zone procedures would allow the company to choose the duty rate that applies to finished PEX tubing (3.1%) on the foreign material inputs noted above. On other foreign materials stored at the plant, Wirsbo would be able to defer duty payments. The application indicates that subzone status would help this new plant compete internationally.

In accordance with the Board's regulations (as revised, 56 FR 50790–50808, 10–8–91), a member of the FTZ Staff has been designated examiner to investigate the application and report to the Board.

Public comment on the application is invited from interested parties. Submissions (original and 3 copies) shall be addressed to the Board's Executive Secretary at the address below. The closing period for their receipt is October 2, 1992. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period (to October 19, 1992).

A copy of the application and accompanying exhibits will be available for public inspection at each of the following locations:

U.S. Department of Commerce District Office, 108 Federal Building, 110 S. Fourth Street, Minneapolis, MN 55401

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

Dated: July 23, 1992.

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 92–18257 Filed 7–31–92; 8:45 am]

BILLING CODE 3510–DS–M

International Trade Administration

[A–588–055]

Acrylic Sheet From Japan; Intent To Revoke Antidumping Finding

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

ACTION: Notice of intent to revoke antidumping finding.

SUMMARY: The Department of Commerce is notifying the public of its intent to revoke the antidumping finding on acrylic sheet from Japan. Interested parties who object to this revocation must submit their comments in writing no later than August 31, 1992.

EFFECTIVE DATE: August 3, 1992.

FOR FURTHER INFORMATION CONTACT: Sheila Forbes or Thomas Futtner, Office of Antidumping Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230, telephone: (202) 377–8120.

SUPPLEMENTARY INFORMATION:

Background

On August 30, 1976, the Department of Treasury published an antidumping finding on acrylic sheet from Japan (41 FR 36497). The Department of Commerce ("the Department") has not received a request to conduct an administrative review of this finding for the most recent four consecutive annual anniversary months.

The Department may revoke an order or finding if the Secretary of Commerce concludes that it is no longer of interest to interested parties. Accordingly, as required by § 353.25(d)(4) of the Department's regulations, we are notifying the public of our intent to revoke this finding.

Opportunity to Object

No later than August 31, 1992, interested parties, as defined in § 353.2(k) of the Department's regulations, may object to the Department's intent to revoke this antidumping finding.

Seven copies of any such objections should be submitted to the Assistant Secretary for Import Administration, International Trade Administration, room B–099, U.S. Department of Commerce, Washington, DC 20230.

If interested parties do not request an administrative review by August 31, 1992, in accordance with the Department's notice of opportunity to request administrative review, or object to the Department's intent to revoke by August 31, 1992, we shall conclude that the finding is no longer of interest to interested parties and shall proceed with the revocation.

This notice is in accordance with 19 CFR 353.25(d).

Dated: July 23, 1992.

Roland L. MacDonald,

Acting Deputy Assistant Secretary for Compliance.

[FR Doc. 92–18251 Filed 7–31–92; 8:45 am]

BILLING CODE 3510–DS–M

[A-588-035]

Cadmium From Japan; Intent To Revoke Antidumping Finding

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

ACTION: Notice of intent to revoke antidumping finding.

SUMMARY: The Department of Commerce is notifying the public of its intent to revoke the antidumping finding on cadmium from Japan. Interested parties who object to this revocation must submit their comments in writing no later than August 31, 1992.

EFFECTIVE DATE: August 3, 1992.

FOR FURTHER INFORMATION CONTACT: Robert Marenick, Office of Antidumping Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230, telephone: (202) 377-5255.

SUPPLEMENTARY INFORMATION:

Background

On August 4, 1972, the Department of Treasury published an antidumping finding on cadmium from Japan (37 FR 15700). The Department of Commerce ("the Department") has not received a request to conduct an administrative review of this finding for the most recent four consecutive annual anniversary months.

The Department may revoke an order or finding if the Secretary of Commerce concludes that it is no longer of interest to interested parties. Accordingly, as required by § 353.25(d)(4) of the Department's regulations, we are notifying the public of our intent to revoke this finding.

Opportunity to Object

No later than August 31, 1992, interested parties, as defined in § 353.2(k) of the Department's regulations, may object to the Department's intent to revoke this antidumping finding.

Seven copies of any such objections should be submitted to the Assistant Secretary for Import Administration, International Trade Administration, room B-099, U.S. Department of Commerce, Washington, DC 20230.

If interested parties do not request an administrative review by August 31, 1992, in accordance with the Department's notice of opportunity to request administrative review, or object to the Department's intent to revoke by August 31, 1992, we shall conclude that the finding is no longer of interest to interested parties and shall proceed with the revocation.

This notice is in accordance with 19 CFR 353.25(d).

Dated: July 23, 1992

Roland L. MacDonald,

Acting Deputy Assistant Secretary for Compliance.

[FR Doc. 92-18260 Filed 7-31-92; 8:45 am]

BILLING CODE 3510-DS-M

[A-583-023]

Clear Sheet Glass From Taiwan; Intent To Revoke Antidumping Finding

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

ACTION: Notice of intent to revoke antidumping finding.

SUMMARY: The Department of Commerce is notifying the public of its intent to revoke the antidumping finding on clear sheet glass from Taiwan. Interested parties who object to this revocation must submit their comments in writing no later than August 31, 1992.

EFFECTIVE DATE: August 3, 1992.

FOR FURTHER INFORMATION CONTACT: Robert Marenick, Office of Antidumping Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230, telephone: (202) 377-5255.

SUPPLEMENTARY INFORMATION:

Background

On August 21, 1971, the Department of Treasury published an antidumping finding on clear sheet glass from Taiwan (36 FR 16508). The Department of Commerce ("the Department") has not received a request to conduct an administrative review of this finding for the most recent four consecutive annual anniversary months.

The Department may revoke an order or finding if the Secretary of Commerce concludes that it is no longer of interest to interested parties. Accordingly, as required § 353.25(d)(4) of the Department's regulations, we are notifying the public of our intent to revoke this finding.

Opportunity To Object

No later than August 31, 1992, interested parties, as defined in § 353.2(k) of the Department's regulations, may object to the Department's intent to revoke this antidumping finding.

Seven copies of any such objections should be submitted to the Assistant Secretary for Import Administration, International Trade Administration, room B-099, U.S. Department of Commerce, Washington, DC 20230.

If interested parties do not request an administrative review by August 31, 1992, in accordance with the Department's notice of opportunity to request administrative review, or object to the Department's intent to revoke by August 31, 1992, we shall conclude that the finding is no longer of interest to interested parties and shall proceed with the revocation.

This notice is in accordance with 19 CFR 353.25(d).

Dated: July 23, 1992.

Roland L. MacDonald,

Acting Deputy Assistant Secretary for Compliance.

[FR Doc. 92-18253 Filed 7-31-92; 8:45 am]

BILLING CODE 3510-DS-M

[A-588-007]

High-Capacity Pagers From Japan; Intent To Revoke Antidumping Duty Order

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

ACTION: Notice of intent to revoke antidumping duty order.

SUMMARY: The Department of Commerce is notifying the public of its intent to revoke the antidumping duty order on high-capacity pagers from Japan. Interested parties who object to this revocation must submit their comments in writing no later than August 31, 1992.

EFFECTIVE DATE: July 31, 1992.

FOR FURTHER INFORMATION CONTACT: Philip Marchal or Maureen Flannery, Office of Antidumping Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230, telephone: (202) 377-2923.

SUPPLEMENTARY INFORMATION:

Background

On August 16, 1983, the Department of Commerce (the Department) published an antidumping duty order on high-capacity pagers from Japan (48 FR 37058). The Department may revoke an order or finding if the Secretary of Commerce concludes that it is no longer of interest to interested parties. On August 1, 1991, we published an intent to revoke the antidumping duty order on high-capacity pagers from Japan in accordance with § 353.25(d)(4) of the Department's regulations (56 FR 36768). An interested party filed an objection to our intent to revoke on August 29, 1991. We hereby withdraw the intent to revoke published on August 1, 1991.

However, the Department has not received a request to conduct an administrative review of this order for the most recent four consecutive annual anniversary months. Accordingly, as required by § 353.25(d)(4) of the Department's regulations, we are notifying the public of our intent to revoke this order.

Opportunity to Object

No later than August 31, 1992, interested parties, as defined in § 353.2(k) of the Department's regulations, may object to the Department's intent to revoke this antidumping duty order.

Seven copies of such objections should be submitted to the Assistant Secretary for Import Administration, International Trade Administration, room B–099, U.S. Department of Commerce, Washington, DC 20230.

If interested parties do not request an administrative review by August 31, 1992, in accordance with the Department's notice of opportunity to request administrative review, or object to the Department's intent to revoke by August 31, 1992, we shall conclude that the order is no longer of interest to interested parties and shall proceed with the revocation.

This notice is in accordance with 19 CFR 353.25(d).

Dated: July 23, 1992.

Roland L. MacDonald,

Acting Deputy Assistant Secretary for Compliance.

[FR Doc. 92–18252 Filed 7–31–92; 8:45 am]

BILLING CODE 3510–DS–M

[A–461–008]

Titanium Sponge From the USSR; Intent To Revoke Antidumping Finding

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

ACTION: Notice of intent to revoke antidumping finding.

SUMMARY: The Department of Commerce is notifying the public of its intent to revoke the antidumping finding on titanium sponge from the USSR. Interested parties who object to this revocation must submit their comments in writing no later than August 31, 1992.

EFFECTIVE DATE: August 3, 1992.

FOR FURTHER INFORMATION CONTACT: Fred Baker or Robert Marenick, Office of Antidumping Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230, telephone: (202) 377–5255.

SUPPLEMENTARY INFORMATION:

Background

On August 28, 1968, the Department of Treasury published an antidumping finding on titanium sponge from the USSR (33 FR 12138). The Department of Commerce ("the Department") has not received a request to conduct an administrative review of this finding for the most recent consecutive annual anniversary months.

The Department may revoke an order or finding if the Secretary of Commerce concludes that it is no longer of interest to interested parties. Accordingly, as required by § 353.25(d)(4) of the Department's regulations, we are notifying the public of our intent to revoke this finding.

Opportunity To Object

No later than August 31, 1992, interested parties, as defined in § 353.2(k) of the Department's regulations, may object to the Department's intent to revoke this antidumping finding.

Seven copies of any such objections should be submitted to the Assistant Secretary for Import Administration, International Trade Administration, room B–099, U.S. Department of Commerce, Washington, DC 20230.

If interested parties do not request an administrative review by August 31, 1992, in accordance with the Department's notice of opportunity to request administrative review, or object to the Department's intent to revoke by August 31, 1992, we shall conclude that the finding is no longer of interest to interested parties and shall proceed with the revocation.

This notice is in accordance with 19 CFR 353.25(d).

Dated: July 23, 1992.

Roland L. MacDonald,

Acting Deputy Assistant Secretary for Compliance.

[FR Doc. 92–18255 Filed 7–31–92; 8:45 am]

BILLING CODE 3510–DS–M

Export Trade Certification of Review

ACTION: Notice of application for an amendment to an Export Trade Certificate of review.

SUMMARY: The Office of Export Trading Company Affairs, International Trade Administration, Department of Commerce, has received an application for an amendment to an Export Trade Certificate of Review. This notice summarizes the amendment and requests comments relevant to whether the amended Certificate should be issued.

FOR FURTHER INFORMATION CONTACT: George Muller, Director, Office of Export Trading Company Affairs, International Trade Administration, (202) 377–5131. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 (15 U.S.C. 4001–21) authorizes the Secretary of Commerce to issue Export Trade Certificates of Review. A Certificate of Review protects the holder and the members identified in the Certificate from state and federal government antitrust actions and from private, treble damage antitrust actions for the export conduct specified in the Certificate and carried out in compliance with its terms and conditions. Section 302(b)(1) of the Act and 15 CFR 325.6(a) require the Secretary to publish a notice in the **Federal Register** identifying the applicant and summarizing its proposed export conduct.

Request for Public Comments

Interested parties may submit written comments relevant to the determination whether the Certificate should be amended. An original and five (5) copies should be submitted not later than 20 days after the date of this notice to: Office of Export Trading Company Affairs, International Trade Administration, Department of Commerce, room 1800H, Washington, DC 20230. Information submitted by any person is exempt from disclosure under the Freedom of Information Act (5 U.S.C. 552). Comments should refer to this application as "Export Trade Certificate of Review, application number 88–5A017."

OETCA has received the following application for an amendment to Export Trade Certificate of Review No. 88–00017, which was issued on May 26, 1989 (54 FR 24932, June 12, 1989). The Certificate was previously amended April 4, 1990 (55 FR 14100, April 16, 1990); January 3, 1991 (56 FR 843, January 9, 1991); and December 11, 1991 (56 FR 65467, December 17, 1991).

Summary of the Application

Applicant: Construction Industry Manufacturers Association ("CIMA"), 111 East Wisconsin Avenue, suite 940, Milwaukee, Wisconsin 53202.

Contact: J. William Peterson, Director of Government Affairs.

Telephone: (202) 479–2666.

Application No.: 88–5A017.

Date Deemed Submitted: July 23, 1992.

Request For Amended Certificate

CIMA seeks to amend its Certificate to:

1. Add Manufacturers Division of the American Mining Congress, an association, as a "Member" within the meaning of Section 325.2(1) of the Regulations (15 CFR 325.2 (1));

2. Add the following companies as "Members" within the meaning of Section 325.2(1) of the Regulations (15 CFR 325.2(1)): Cincinnati Mine Machinery Co., Cincinnati, Ohio; Getman Corp., Bangor, Michigan; T. J. Gundlach Machine Company, Belleville, Illinois; Service Machine Co., Huntington, West Virginia; and Manitowoc Engineering Co., Manitowoc, Wisconsin;

3. Add Power, Distribution, and Specialty Transformers (SIC code 3612), Switchgear and Switchboard Apparatus (SIC code 3613), Relays and Controls (SIC code 3625), Electrical Industrial Apparatus, Not Elsewhere Classified (SIC code 3629), Lighting Equipment, Not Elsewhere Classified (SIC code 3648), and Communications Equipment, Not Elsewhere Classified (SIC code 3669) as products to be covered by the Certificate; and

4. Delete Barber-Greene Overseas, Inc. and Gehl Company as "Members" under the Certificate.

Dated: July 28, 1992

George Muller,

Director, Office of Export Trading Company Affairs.

[FR Doc. 92-18262 Filed 7-31-92; 8:45 am]

BILLING CODE 3510-DR-M

National Institute of Standards and Technology

[Docket No. 920651-2151]

State Technology Extension Program

AGENCY: National Institute of Standards and Technology (NIST), Technology Administration, Department of Commerce.

ACTION: Notice of availability of funds.

SUMMARY: The Director of the National Institute of Standards and Technology invites proposals from qualified organizations for funding for projects that accomplish any one of the following objectives. Each proposal should address only one objective. Qualified organizations may submit one proposal for each objective.

Objective 1. Program Planning—create a program plan for a state-wide, coordinated technology extension program where none currently exists, to enhance the competitiveness of small and medium-sized businesses through the application of new technology.

Objective 2. Program Development—develop new technology assistance and/or industrial modernization services to meet the competitiveness needs of small and medium-sized businesses through the application of new technology.

Objective 3. NIST MTC Extension—help businesses take advantage of the services and information offered by the NIST Regional Manufacturing Technology Centers (MTCs).

CLOSING DATE FOR PROPOSALS: Proposals will be accepted until 4 p.m. E.d.t. on September 17, 1992. It is the responsibility of applicants to ensure that their proposals are received at the State Technology Extension Program office by the time and date stated. Proposals received after the closing time and date will be disqualified and returned.

ADDRESSES: Applicants must submit one signed original plus six copies of the proposal along with Standard Form 424 to: State Technology Extension Program, Physics Building (Bldg. 221), room A-343, National Institute of Standards and Technology, Gaithersburg, Maryland, 20899.

FOR FURTHER INFORMATION CONTACT: For clarification of the content of this notice telephone: Mr. Douglas Devereaux at (301) 975-4499. Copies of SF424 (Rev 4-88) and other required forms may be obtained from the NIST Grants Office (301) 975-6328.

SUPPLEMENTARY INFORMATION:

Background

The Omnibus Trade and Competitiveness Act of 1988 (Pub. L. 100-418), as amended, directs the Secretary of Commerce, through the Director of NIST, to "provide technical assistance to State technology programs throughout the United States, in order to help those programs help businesses, particularly small- and medium-sized businesses, to enhance their competitiveness through the application of science and technology." The NIST State Technology Extension Program (STEP) was created to work with State and local technology assistance providers to enhance and develop their capability to meet the competitiveness needs of local industry. Program efforts focus on stimulating cooperation and communication between and within state programs; collecting and disseminating information about successful technology assistance activities, such as best practices, model programs and common tools; and providing matching funds for development and coordination of technology assistance activities.

In August 1990, NIST STEP provided funding for projects that prompted innovative methods for increasing use of federal technology by businesses and for helping businesses take advantage of the NIST Regional Manufacturing Technology Centers. In September 1991, NIST STEP provided funding to state governments to plan for state-wide coordination of existing and/or newly developed state, local and federal technology assistance programs.

This year NIST STEP will provide funds to states for planning and/or developing coordinated technology assistance services and for providing linkage to the NIST Manufacturing Technology Centers. These awards will continue to promote increased coordination and communication within and between states as is consistent with the mission of the STEP.

Invitation for Proposals

Qualified organizations are invited to submit one proposal in one or more of the three following Objectives (maximum of three proposals). Each proposal should address only one objective.

Objective 1. Program Planning—create a program plan for a state-wide, coordinated technology extension program where none currently exists, in order to enhance the competitiveness of small and medium-sized businesses. The project will plan for development and coordination of new and/or existing services such as (but not limited to) federal industry assistance programs, federal laboratories, state industry assistance programs, community college training programs, university based industry assistance programs, basic and applied research programs, financial assistance programs, and business and management assistance programs, into a unified, state-wide program.

Objective 2. Program Development—develop new technology assistance and/or industrial modernization services to meet the competitiveness needs of small and medium-sized businesses. Proposed programs should provide new services and activities that effectively and efficiently assist small and medium sized-businesses overcome barriers of technology transfer and deployment. For example, proposals could include, but are not limited to, projects for industrial extension, technology transfer/deployment, workforce training, and/or quality improvement.

Objective 3. MTC Extension—help small and medium-sized businesses take advantage of the services and

information offered by the NIST Regional Manufacturing Technology Center(s) (MTCs). Proposed programs should help small and medium-sized business that are currently out of reach of an operational MTC take advantage of the services and activities offered by the MTC(s). Proposed programs should be organized to rely both on their own technical management resources and on the strength of the linkage with the host MTC(s). The MTC(s) identified in the proposal must be operational. Operational centers include: the Southeast Manufacturing Technology Center in Columbia, South Carolina, the Great Lakes Manufacturing Technology Center in Cleveland, Ohio, the Northeast Manufacturing Technology Center in Troy, New York, the Mid-America Manufacturing Technology Center in Overland Park, Kansas, and the Midwest Manufacturing Technology Center in Ann Arbor, Michigan.

Funding Available

Approximately $600,000 will be available to support cooperative agreements under this program. The maximum amount to be awarded for any proposal is $100,000. Although states are invited to submit one proposal in each of the three objectives, a maximum of $100,000 will be awarded to any state. States may submit proposals for less than $100,000 and may receive funding for more than one proposal, so long as the total funding to any state does not exceed $100,000. Agreements entered into under this program shall be available for one year. The Department of Commerce has no obligation to provide any additional future funding to applicants selected for funding under this program. Renewal of an award to increase funding or extend the period of performance is at the total discretion of the Department.

Definition

For the purposes of this notice, the following definition applies:

The term "State-wide, coordinated technology extension program" refers to programs that link the capabilities of state technology development and business assistance programs to assure the availability of a wide range of business and technical specialists; support training as a critical component of technology deployment; emphasize client-directed problem solving including assistance in identifying and adapting appropriate technology and know-how to individual clients' needs and markets; recognize businesses' needs for a variety of services; and emphasize the value of on-site personal field service in assisting firms.

Proposal Qualifications

Qualified Organizations

Eligible applicants under the program are any state government, either for itself or for a consortium of states. States may to propose to provide services directly or may arrange for the provision of any or all of the proposed services by institutions of higher education or other non-profit institutions or organizations. All applicants must submit a letter in the Basic Proposal from their Governor's office indicating that the applicant is the lead organization for that specific proposal objective, acknowledging that there is only one proposal from that state for that objective. Applicants submitting proposals for Objective 3, MTC Extension, must submit a letter in the Basic Proposals from the Director of the relevant MTC(s), agreeing to cooperate with the proposed activities. States that received funding from NIST STEP in August 1990 for helping businesses take advantage of the services and information offered by the NIST MTCs, are not eligible for funding for proposal Objective 3, MTC Extension. States that received funding from NIST STEP in September 1991 for program planning are not eligible for funding for proposal Objective 1, Program Planning. Unsatisfactory performance under prior Federal awards may result in an application not being considered for funding.

Proposal Format

The Basic Proposal must not exceed 25 typewritten pages in length. The applicant may submit a separately bound document of appendices, or other relevant information, in support of the Basic Proposal. Appendices and other supplemental information must not exceed 20 pages. Excess pages in either the Basic Proposal (over the 25 page limit) or the supplemental appendices (over the 20 page limit) will not be considered in the evaluation.

Content of Basic Proposal

The Basic Proposal must at a minimum include the following:

A. Program description and information necessary for evaluation in accordance with the Evaluation and Selection Criteria section in this notice.

B. A budget for the project which identifies all sources of funds.

C. A description of the qualifications of key personnel assigned to work on the proposed project.

D. A Standard Form 424 (Rev 4–88). SF424 (Rev 4–88) will be considered part of the page count of the Basic Proposal. Other required forms may be submitted separately and will not be considered part of the page count of either the Basic Proposal or the supplemental appendices.

E. A letter from the Governor's office indicating that the applicant is the lead organization for that specific proposal objective, acknowledging that there is only one proposal from that state for that objective.

F. A letter from the Director of the relevant MTC(s), agreeing to cooperate with the proposed activities, if applicable (required for Objective 3, MTC extension, only).

Financial Information

A matching contribution from each state is required. NIST may provide financial support up to 50% of the total budget for the project, not to exceed $100,000, as the federal share. Applicant's share of the budget may include dollar contributions from state, county, industrial or other non-federal sources and in-kind contributions of personnel assigned to work on the project. For Proposal Objective 2, Program Development, and Objective 3, MTC Extension, one half of the match must be non-federal cash. The Department of Commerce has no obligation to cover pre-award costs, notwithstanding any verbal assurance an applicant may have received. Applicants that incur costs prior to an award being made, do so solely at their own risk of not being reimbursed by the Government.

Proposal Evaluation and Selection Criteria

Proposals from applicants will be evaluated and rated on the basis of the following criteria by an impartial competitive review process. The first set of five evaluation and selection criteria apply only to Objective 1, Program Planning. The second set of five criteria apply only to Objective 2, Program Development and Objective 3, MTC Extension. Consideration will be given to geographic diversity in making awards.

Criteria for Objective 1. Program Planning

1. Coordination with Existing Resources

Proposed plan for interacting or coordinating with existing or newly formed federal, state or local technology/industrial assistance services to achieve economies of scale, avoid duplication or services and present a unified program of assistance to small and medium-sized businesses in the proposed service area. It is particularly important for the applicant

to show their strategy and methodology for involving existing, newly formed and planned federal, state and local industrial assistance services in the extension service planning process. (25 points)

2. Financial Plan

The relevancy and cost effectiveness of the applicant's financial plan for meeting the objectives of the proposal; the firmness and level of the applicant's total financial support for the project and the ability of the applicant to maintain the program after the cooperative agreement has expired. It is important for the applicant to show their strategy for seeking broad based financial support for creation of the newly coordinated program as planned in the proposed planning process. (20 points)

3. Needs Identification Methodology

Applicant's methodology for identifying and understanding the assistance needs (e.g., technology, training, information, quality improvement, management, etc.) of industry in that state and for obtaining broad based industrial support for the new coordination effort. (20 points)

4. Resource Identification Methodology

The applicant's methodology for collecting information about the number, size, technical sophistication, type and relevancy of existing industrial assistance activities that will be part of the coordination effort. (20 points)

5. Qualifications

Qualifications and experience of the project team and relevancy of the proposing organization for conducting this project. (15 points)

Criteria for Objective 2, Program Development and Objective 3, MTC Extension

1. Coordination with Existing Resources

Proposed plan for interacting or coordinating with existing or newly formed federal, state or local technology/industrial assistance services to achieve economies of scale, avoid duplication or services and present a unified program of assistance to small and medium-sized businesses in the proposed service area. It is important to show how the proposed program integrates with, and enhances, existing federal, state and local technology assistance and industrial modernization activities. (20 points)

2. Financial Plan

The relevancy and cost effectiveness of the applicant's financial plan for meeting the objectives of the proposal; the firmness and level of the applicant's total financial support for the project and the ability of the applicant to maintain the program after the cooperative agreement has expired. It is important to show a conceptual plan for continuing the program after the cooperative agreement has expired. (20 points)

3. User Needs

Identify and demonstrate understanding of relevant industry assistance needs in the proposed service region and show how the proposed program meets those needs. (30 points)

4. Program Management

Completeness and relevancy of the program management plan including effectiveness of the planned methodology of program management and qualifications of the project team and relevancy of the proposing organization(s) for conducting this project. (15 points)

5. Program Evaluation

Applicant's plan for evaluation of the effectiveness of the proposed program and for continuous improvement of program activities. (15 points)

Proposal Selection Process

The proposal evaluation and selection process will consist of three principal phases: Proposal qualification; Proposal review and selection of finalists; and Award determination.

a. *Proposal Qualification*

All proposals will be reviewed by NIST to assure compliance with the proposal content and other basic provisions of this notice. Proposals which satisfy these requirements will be designated qualified proposals; all others will be disqualified at this phase of the evaluation and selection process.

b. *Proposal Review and Selection of Finalists*

The Director of NIST will appoint an evaluation panel to review and evaluate all qualified proposals in accordance with the evaluation and selection criteria set forth in this notice. From the qualified proposals a group of finalists will be selected based on this review. This review process should take approximately 30 days.

c. *Award Determination*

The Director of NIST, or his designee, shall select awardees based upon the rank order of applicants and the availability of funds. The maximum total amount of funds awarded to any one state will be $100,000. Upon the final award decision, a notification will be made to each of the proposing organizations.

Additional Requirements

Awards under this program shall be subject to all Federal and Departmental regulations, policies and procedures applicable to financial assistance awards. All applicants must submit a completed Form CD–511, "Certifications Regarding Debarment, Suspension, and other Responsibility Matters; Drug-Free Workplace Requirements and Lobbying." Prospective participants, as defined at 15 CFR 26.105, are subject to 15 CFR part 26, "Governmentwide Debarment and Suspension (Nonprocurement)" and the applicable section of the Form CD–511. Grantees, as defined at 15 CFR 26.605, are subject to 15 CFR part 26, subpart F, "Governmentwide Requirements for Drug-Free Workplace (Grants)" and the applicable section of the Form CD–511. Persons, as defined at 15 CFR 28.105, are subject to the lobbying provisions of 31 U.S.C. 1352, "Limitation on use of appropriated funds to influence certain Federal contracting and financial transactions." The section of the Form CD–511 relating to lobbying applies to applications/bids for grants, cooperative agreements, and contracts for more than $100,000 and loans and loan guarantees for more than $150,000, or the single family maximum mortgage limit for affected programs, whichever is greater. Any applicant that has paid or will pay for lobbying using any funds must submit SF–LLL, "Disclosure of Lobbying Activities," as required under 15 CFR part 28, appendix B.

Recipients shall require applicants for subgrants, contracts, subcontracts or other lower tier covered transactions at any tier under the award to submit, if applicable, a completed Form CD–512, "Certifications Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion Lower Tier Covered Transactions and Lobbying" and Form SF–LLL, "Disclosure of Lobbying Activities." Although the CD–512 is intended for the use of primary recipients and should not be transmitted to NIST, the SF–LLL submitted by any tier recipient or sub-recipient should be forwarded in accordance with the instructions contained in the award document.

A false statement on any application for funding under the State Technology Extension Program may be grounds for denial or termination of funds and grounds for possible punishment by a fine or imprisonment. Except where declared by law, no award of federal funds shall be made to an applicant who has an outstanding delinquent Federal debt until either:

--The delinquent account is paid in full,
—A negotiated repayment schedule is established and at least one payment has been received, or
--Other arrangements satisfactory to the Department of Commerce are made.

The grantee will administer the grant in accordance with title 15, part 24, of the code of Federal Regulations.

Classification

The State Technology Extension Program is being carried out under the authority of the Omnibus Trade and Competitiveness Act of 1988, as amended. The catalog number for this program in the Catalog of Federal Domestic Assistance is 11613. This document is consistent with Executive Order 12291. Executive Order 12372 is applicable to the extent permitted by law. This notice relating to public property, loans, grants, benefits, or contracts is exempt from all requirements of section 553 of the Administrative Procedure Act (5 U.S.C. 553(a)(2)) including notice and opportunity for comment. Therefore, a Regulatory Flexibility Analysis is not required and was not prepared for this notice for purposes of the Regulatory Flexibility Act (5 U.S.C. 603 and 604). The program is not a major federal action requiring an environmental assessment under the National Environmental Policy Act. This notice does not contain policies with Federalism implication sufficient to warrant preparation of a Federalism assessment under Executive Order 12612. This notice contains collection of information requirements subject to the Paperwork Reduction Act which have been approved by the Office of Management and Budget (OMB Control Number 0693–0010).

Dated: July 23, 1992.

John W. Lyons,

Director.

[FR Doc. 92–17881 Filed 7–31–92; 8:45 am]

BILLING CODE 3510–13–M

National Oceanic and Atmospheric Administration

[Docket No. 920384–2084]

RIN 0648–AE72

Process for the Management of Highly Migratory Species

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

ACTION: Notice of proposed process and request for comments; extension of the public comment period.

SUMMARY: NMFS published a notice of a proposed agency process on May 29, 1992, for implementing provisions of the Fishery Conservation Amendments of 1990 (Pub. L. 101–627) concerning the management of highly migratory species in the Atlantic Ocean, Gulf of Mexico, and Caribbean Sea (57 FR 22718). The notice proposes a process that NOAA will follow in preparing, amending, and implementing fishery management plans and identifies the opportunities for involvement by the public, the Regional Fishery Management Councils, and the U.S. Commissioners (and their advisors) to the International Convention for the Conservation of Atlantic Tunas. Public comments were invited through July 28, 1992. Based upon public requests for additional time for commenting on the proposed process, NMFS is extending the public comment through August 27, 1992.

DATES: Comments must be received on or before August 27, 1992.

ADDRESSES: Comments on the proposed process should be mailed to Richard H. Schaefer, Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service, 1335 East-West Highway, Silver Spring, Maryland 20910. Please mark the envelope "Highly Migratory Species Process—Comments."

FOR FURTHER INFORMATION CONTACT: Richard H. Schaefer, Director, Office of Fisheries Conservation and Management, NMFS, Telephone: (301) 713–2334 or Davis A. Hays, Office of Fisheries Conservation Management, NMFS, Telephone: (301) 713–2343.

Dated: July 28, 1992.

Michael F. Tillman,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 92–18226 Filed 7–28–92; 4:48 pm]

BILLING CODE 3510–22–M

[Docket No. 920107–2007]

Notice of Draft Guidelines for Approaching Seals and Sea Lions

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

ACTION: Notice of draft guidelines.

SUMMARY: NMFS is issuing draft guidelines for approaching seals and sea lions that include a limit on how close these marine mammals should be approached by people, vessels, and aircraft. These approach limits allow people to observe seals and sea lions while providing a measure of safety for them that is consistent with sound management practices required by the Marine Mammal Protection Act (MMPA).

DATES: Comments on the draft guidelines must be received by October 2, 1992.

ADDRESSES: Comments should be submitted to Dr. Nancy Foster, Director, Office of Protected Resources, National Marine Fisheries Service, 1335 East-West Highway, Silver Spring, MD 20910.

FOR FURTHER INFORMATION CONTACT: Margaret C. Lorenz, Office of Protected Resources, NMFS, 301–427–2322; Douglas Beach, Northeast Region, 508–281–9254; James Lecky, Southwest Region, 213–514–6664; Eugene Nitta, Pacific Area Office, 808–955–8831; Charles Oravetz, Southeast Region, 813–893–3366; Brent Norberg, Northwest Region, 206–526–6110; and Steven Zimmerman, Alaska Region, 907–586–7233.

SUPPLEMENTARY INFORMATION:

Background

In a separate document published in the **Federal Register**, NMFS is proposing regulations that will provide greater protection to whales and dolphins by setting a minimum distance from which they can be approached by people, vessels and aircraft. NMFS has determined there is a need for regulating approaches to the endangered Hawaiian monk seal, and, the proposed regulations include a minimum approach distance for this species. Also, regulations are currently in effect that govern approaches to certain Steller sea lion rookeries in Alaska. However, until NMFS has information that a need exists to regulate approaches to other seals and sea lions, NMFS is issuing guidelines, rather than regulations, for approaching these animals.

Certain activities, such as commercial fishing and scientific research, that operate under a permit or an exemption issued under the Marine Mammal

Protection Act (MMPA) or the Endangered Species Act (ESA), may be specifically authorized to approach these animals closer than the minimum distances described in the guidelines.

An increasing interest in observing or approaching all marine mammals in the wild by the general boating public has made those responsible for the management and protection of these animals concerned that these activities may be causing biological problems for the animals. Although NMFS believes the public can benefit from an experience that allows them to observe seals and sea lions, the public needs to be aware that these animals are vulnerable to injury and disturbance by people, vessels and aircraft.

Seals and sea lions are most vulnerable to disturbance while using rookeries and places where they rest on land or structures such as docks and piers (haulout sites). These disturbances are particularly significant during breeding and pupping seasons because important patterns in their life cycles may be disrupted. Depending on the frequency and severity of disturbance at haulout sites and rookeries, breeding success may be affected, mothers and pups can be separated, or important breeding locations may be abandoned.

Although seals and sea lions are not usually the primary animals targeted by commercial sightseeing tours, there are conducted tours of seal and sea lion rookeries, and an increasing interest by private boaters and commercial tourboats in observing these animals. On the West Coast of the United States, large numbers of seals and sea lions congregate close to or on shore often in areas populated by humans. In some places such as Newport, Oregon and Monterey, California, seals and sea lions on the docks and piers are popular tourist attractions.

The MMPA prohibits taking marine mammals unless an exception has been made. In 50 CFR 216.3, "take means to harass, hunt, capture, collect, or kill, or attempt to harass, hunt, capture, collect, or kill any marine mammal. This includes, without limitation, any of the following: The collection of dead animals, or parts thereof; the restraint or detention of a marine mammal, no matter how temporary; tagging a marine mammal; the negligent or intentional operation of an aircraft or vessel, or the doing of any other negligent or intentional acts which result in disturbing or molesting a marine mammal; and feeding or attempting to feed a marine mammal in the wild." Threatened or endangered marine mammals are protected further by the Endangered Species Act. Although harassment of a marine mammal from any distance is defined as a *take*, and, therefore, prohibited, these guidelines reduce the opportunity and likelihood that seals and sea lions will be harassed.

Scientific Research Permits

Under the guidelines for approaching seals and sea lions, research may be conducted without a research permit from any vessel as long as the guidelines are followed and harassment does not occur. Research that may result in harassment requires a research permit. NMFS also recommends a research permit be obtained if an approach closer to the animals than the guidelines allow may occur during research activities. Also, it is NMFS' policy that research conducted under a permit may not take place in conjunction with commercial seal and sea lion watching because permit holders may be allowed to approach these animals closer than the distance the guidelines recommend should be maintained between the general public and the animals.

NMFS Guidelines for Approaching Seals and Sea Lions

Note: Any regulations in effect take precedence over these guidelines.

A. The following guidelines for approaching seals and sea lions apply to all persons subject to the jurisdiction of the United States or any vessel or aircraft operating in water, land or air under the jurisdiction of the United States:

1. Do not approach within 50 yards of a seal or sea lion in the water;

2. Do not approach within 100 yards of a seal or sea lion on land;

3. Do not approach within 50 feet of a seal or sea lion hauled out on a fixed structure. The term fixed structure includes a pier, wharf, dock, buoy or other similar structure, but does not include a jetty, breakwater or a structure similar to natural haulout areas favored by pinnipeds or any structure located in or adjacent to a breeding rookery;

4. Do not operate an aircraft within 1,000 feet of a seal or sea lion or attempt to encircle a seal or sea lion with an aircraft; and

5. Do not operate a vessel or aircraft or carry out an activity in a manner that disrupts the normal movement of a seal or sea lion. A disruption of behavior may be manifested by, but is not restricted to, the following: a rapid change in direction or speed; escape tactics such as prolonged diving or fleeing into the water from a haulout or rookery, evasive swimming patterns; interruptions of feeding or migratory activities; aggressive postures or changes directed at intruders; attempts by a seal or sea lion to shield a pup from a vessel or human observer; the abandonment of a previously frequented area; or other stress-related behavior.

B. The following vessel operating procedures should be observed to provide greater protection to seals and sea lions and to reduce the likelihood of a "take" of these animals:

(1) When a seal or sea lion approaches a vessel that is underway, the operator of that vessel should take precautions to minimize disturbance to the animal. These actions include maintaining speed and direction and avoiding low-speed maneuvering such as reversing direction, using bow thrusters, or sudden changes in propeller pitch.

(2) Never attempt a "head-on" approach of a seal or sea lion from any distance.

Dated: July 28, 1992.

Michael F. Tillman,

Deputy Assistant Administrator for Fisheries.

[FR Doc. 92-18215 Filed 7-31-92; 8:45 am]

BILLING CODE 3510-22-M

North Pacific Fishery Management Council; Public meeting

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

The North Pacific Fishery Management Council's (Council) Crab Interim Action Committee will meet on August 26, 1992, at the Federal Annex Building, 9109 Mendenhall Mall Rd., suite 5 (Bureau of Indian Affairs Conference Room), Juneau, AK. The meeting will begin at 9 a.m.

On June 30, 1992, the National Marine Fisheries Service Alaska Region received an appeal regarding the Alaska Board of Fisheries' decision to adopt regulations limiting the number of pots that may be carried aboard vessels in certain Bering Sea and Aleutian Islands King and Tanner crab fisheries.

The Fishery Management Plan for the Commercial King and Tanner Crab Fisheries in the Bering Sea/Aleutian Islands authorizes this appeal and requires that the Crab Interim Action Committee of the North Pacific Fishery Management Council consider this appeal and forward the Council's recommendations to the Secretary of Commerce.

For more information contact Brent Paine, North Pacific Fishery Management Council, P.O. Box 103136, Anchorage, AK 99510; telephone: (907) 271-2809.

Dated: July 28, 1992.

Joe P. Clem,

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

[FR Doc. 92-18227 Filed 7-31-92; 8:45 am]

BILLING CODE 3510-22-M

Endangered Species; Permits

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

ACTION: Issuance of Permit No. 793; Fish Passage Center, (P500A).

On May 12, 1992, notice was published in the **Federal Register** (57 FR 20246) that an application had been filed by the Fish Passage Center, 2501 SW First Ave., suite 230, Portland, OR 97201-4752, to take Snake River sockeye salmon (*Oncorhynchus nerka*) and Snake River spring/summer and fall chinook salmon (*O. tshawytscha*) for the purposes of scientific research and enhancement. An emergency permit allowing the requested activities for research on, and the enhancement of, Snake River chinook and sockeye salmon was issued on May 29, 1992. This emergency permit was in effect pending full public and governmental review of the application and is now superseded by issuance of this permit.

Notice is hereby given that on July 29, 1992 as authorized by the provisions of the Endangered Species Act of 1973 (16 U.S.C. 1531-1543), the National Marine Fisheries Service issued a Permit for the above taking subject to certain conditions set forth therein.

Issuance of this Permit as required by the Endangered Species Act of 1973 was based on a finding that such Permit: (1) was applied for in good faith; (2) will not operate to the disadvantage of the endangered species which is the subject of this Permit; (3) is consistent with the purposes and policies set forth in section 2 of the Endangered Species Act of 1973. This Permit was also issued in accordance with and is subject to Parts 220-222 of title 50 CFR, the National Marine Fisheries Service regulations governing endangered species permits.

The application, Permit and supporting documentation are available for review by interested persons in the following offices by appointment:

Permit Division, Office of Protected Resources, National Marine Fisheries Service, 1335 East-West Highway, Suite 7324, Silver Springs, MD 20910 (301/713-2289);
and

Environmental and Technical Services Division, National Marine Fisheries Service, 911 North East 11th Ave., room 620, Portland, OR 97232 (503/230-5400).

Dated: July 29, 1992.

Charles Karnella,

Acting Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 92-18307 Filed 7-31-92; 8:45 am]

BILLING CODE 3510-22-M

Marine Mammals; permits.

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

ACTION: Issuance of Permit; NMFS, Southwest Fisheries Science Center (P772#60).

On June 11, 1992, notice was published in the **Federal Register** (57 FR 24778) that an application had been filed by the Southwest Fisheries Science Center, National Marine Fisheries Service, La Jolla, CA 92038, to take marine mammals as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407) and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216).

The Southwest Fisheries Science Center requested authorization to collect and import into the United States, tissue samples taken by projectile dart (biopsies) from various populations of bow-riding small cetaceans in the eastern tropical Pacific over a five-month period. The samples will be used in genetic analyses for the purpose of stock differentiation studies.

Notice is hereby given that on July 27, 1992 authorized by the provisions of the Marine Mammal Protection Act (16 U.S.C. 1361-1407) the National Marine Fisheries Service issued a Permit for the above taking subject to certain conditions set forth therein.

The application, Permit and supporting documentation are available for review by interested persons in the following offices by appointment:

Permit Division, Office of Protected Resources, National Marine Fisheries Service, 1335 East-West Highway, suite 7324, Silver Spring, MD 20910 (301/713-2289);
and

Director, Southwest Region, National Marine Fisheries Service, NOAA, 501 West Ocean Blvd., suite 4200, Long Beach, CA 90802-4213 (310/980-4016).

Dated: July 27, 1992.

Charles Karnella,

Acting Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 92-18213 Filed 7-31-92; 8:45 am]

BILLING CODE 3510-22-M

Patent and Trademark Office

[Docket No. 920782-2182]

Review of Patent and Trademark Office Appeal Procedures

AGENCY: Patent and Trademark Office, Commerce.

ACTION: Notice; request for public comments.

SUMMARY: The Commissioner is reviewing the structure and operation of the Board of Patent Appeals and Interferences and the Trademark Trial and Appeal Board. To ensure that any possible changes are considered with full appreciation of the views of the public and the patent and trademark user community, public comments are invited.

DATES: Written comments must be submitted by November 2, 1992. A public hearing will be held on November 4, 1992, at 9:30 a.m. Requests to present oral testimony should be received on or before November 2, 1992.

ADDRESSES: Submit written comments and requests to present oral testimony to Michael K. Kirk, Assistant Commissioner for External Affairs, U.S. Patent and Trademark Office, Box 4, Washington, DC 20231. The hearing will be held in room 912, on the ninth floor of Crystal Park 2, 2121 Crystal Drive, Arlington, Virginia. Written comments and a transcript of the hearing will be available for public inspection in room 902 of Crystal Park 2, 2121 Crystal Drive, Arlington, Virginia.

FOR FURTHER INFORMATION CONTACT: Michael K. Kirk, Assistant Commissioner for External Affairs, U.S. Patent and Trademark Office, Box 4, Washington, DC 20231. Phone: (703) 305-9300.

SUPPLEMENTARY INFORMATION: The public is invited to submit written comments on the matters set forth below. Submissions may include appropriate supporting material where relevant, and must include the name and/or professional affiliation of the submitter.

Background

Suggestions have recently been made to the effect that possible changes in the

structure and operation of one of the statutory administrative tribunals (boards) within the PTO, namely, the Board of Patent Appeals and Interferences, may be desirable. Comments are invited in order to facilitate the Commissioner's review of these matters, not only with respect to the Board of Patent Appeals and Interferences but also with respect to the other statutory administrative tribunal, the Trademark Trial and Appeal Board. The following discussion will briefly describe the structure and operation of the boards from a historical perspective and provide some insight as to their present structure and operation.

I. The Board of Patent Appeals and Interferences

A. History

In 1836, Congress created for patent applicants a right of review of adverse patentability decisions entered by the Commissioner of Patents. Act of July 4, 1836, ch. 357, section 7, 5 Stat. 117.

In 1861, Congress restructured the review process by providing for a two level appeal *within* the Patent Office, the first level being an appeal from an examiner's decision twice rejecting the claims in an application to a board of three examiners-in-chief (EICs), and the second level being an appeal from a board's decision to the Commissioner of Patents. Act of March 2, 1861, ch. 88, section 2, 12 Stat. 246; see also William C. Robinson, *Law of Patents* Vol. 2, 185–87 (1890).

Congress again, in 1927, changed the system of appealing a Patent Office patentability decision within the Office by eliminating the old board of EICs and substituting therefor a board of appeals consisting of the Commissioner of Patents, the first assistant commissioner, the assistant commissioner, and EICs, to be appointed by the President, with the advice and consent of the Senate. See Act of March 2, 1927, ch. 273, section 3, 44 Stat. 1335; see also In re Wiechert, 370 F.2d 927, 953, 152, USPQ 247, 267 (CCPA 1967) (Smith, J., dissenting). Congress provided that appeals should be heard by at least three board members, to be designated by the Commissioner. Act of March 2, 1927, ch. 273, section 3, 44 Stat. 1335. In this act, Congress eliminated the right of further appeal to the Commissioner from an adverse board decision. *Id.* This scheme has substantially remained intact until the present.

Pursuant to an act of Congress in 1984, the Board of Appeals was merged with the Board of Patent Interferences to become the sole patent board of the Office, named the Board of Patent Appeals and Interferences (BPAI). Patent Law Amendments Act of 1984, Public Law No. 98–622, title II, section 201(a), 98 Stat. 3386.

B. Present Status

The BPAI is presently comprised of the Commissioner of Patents and Trademarks, the Deputy Commissioner, the Assistant Commissioners appointed under 35 U.S.C. 3, and EICs. 35 U.S.C. 7(a). Since 1975, EICs have been appointed, upon the nomination of the Commissioner, by the Secretary of Commerce, 35 U.S.C. 3(a), and to the competitive service, 35 U.S.C. 7(a). As of June 1, 1992, there were 45 EICs including the Chairman and Vice Chairman of BPAI.

The Commissioner has the responsibility to superintend and perform all duties required by law respecting the granting and issuing of patents. 35 U.S.C. 6(a). Those duties include establishing legal policy based on statutory and case law. The Commissioner has shaped legal policy in part through his participation as a member of the patent board of appeals and by designating the panel to consider particular cases.

From October 1, 1979, through April 30, 1992, BPAI issued 53,681 decisions in *ex parte* appeals. During this twelve and one-half year period, the Commissioner designated himself as a member of a panel in fewer than a fraction of a percent of these *ex parte* appeals. Of the ten known appeals in which the Commissioner participated as a member of the panel deciding the appeal, five were consolidated because they involved a common question of law. Also, in two of the ten appeal decisions, there was at least one EIC who was a member of the panel who dissented. In another appeal, and EIC wrote a concurring opinion.

The Commissioner lacks authority to seek judicial review of a decision of BPAI in the courts. The Commissioner can, however, reopen prosecution of an application following a decision of BPAI, either on petition of the applicant or *sua sponte*. 37 CFR 1.198. Also, an examiner can request reconsideration of an *ex parte* appeal decision. See *In re Schmidt*, 377 F.2d 639, 642, 153 USPQ 640, 642 (CCPA 1967).

C. Performance Requirements

As a result of the transition from Presidential appointment to appointment under the civil service, EICs became subject to performance plan requirements. 5 U.S.C. 4302. The work of the board, with respect to quality, timeliness and productivity, has an impact on patent pendency and on other aspects of the mission of PTO. It is, therefore, necessary to monitor the performance of the members of BPAI. The current performance appraisal plan for EICs was implemented in 1986. Informal performance requirements had existed previously, but were only applicable to EICs who were not Presidential appointees.

The current plan (applicable to EICs aside from the Chairman and Vice Chairman) includes four "weighted" elements. The elements and their respective weights are set forth below, followed by a brief explanation:

(1) *Performance of judicial duties when serving as the author of a majority decision* (up to 50% of total appraisal). Requirement: prepare timely and well-reasoned decisions in appeals from adverse decisions of examiners and/or in interferences.

(2) *Performance of judicial duties without primary decision-writing responsibility* (40% of total appraisal). Requirement: participate in conferences and hearings, timely and thoroughly review opinions prepared by co-panel members.

(3) *Participation in educational, scholarly and system improvement activities* (10% of total appraisal). Requirement: enhance the legal and technical skills of the EIC, the examiners, and members of the Bar.

(4) *Performance of interlocutory duties in interferences* (up to 50% of total appraisal). Requirement: control and decide interlocutory matters in interferences and other *inter partes* proceedings.

Elements (1) and (4) are weighted to total 50% of an EIC's performance appraisal. If an EIC is not assigned any interlocutory duties by the Chairman or Vice Chairman, that EIC's "weight" in element (4) would be 0%, with the weight in element (1) then being 50%. The weight given to element (1) is reduced form 50% by the amount of responsibility assigned to an EIC under element (4).

One of the factors used to arrive at a rating ("Outstanding," "Commendable," "Fully Successful," "Marginal," or "Unacceptable") for element (1) is the total number of decisions written by and EIC for the fiscal year under consideration. Productivity "ranges" are established for the EIC's by the Commissioner in consultation with the Chairman. The ranges vary according to the three technology disciplines, *i.e.*, chemical, electrical, and mechanical, and are based upon a five-year historical average of the number of decisions authored by the EICs in the relevant technology disciplines. The ranges for the chemical and electrical disciplines recently have been adjusted in recognition of the increased complexity of cases in these

technological fields. EICs may call to the attention of the Chairman or Vice Chairman any mitigating circumstance(s) which might have affected their productivity, such as, cases which are inordinately difficult; require consideration of an unusually large record; or require inordinately extensive legal or technical research.

In addition to productivity, the quality and timeliness of decisions written are also factors included in element (1). In many instances, ratings for EICs have been higher than they would have been if the productivity ranges were the sole criterion in element (1), *i.e.*, if other factors were not taken into consideration.

D. Compensation

The compensation for the EICs (aside from the Chairman and Vice Chairman) is determined pursuant to the Federal Employees Pay Comparability Act of 1990 and guidelines issued by the Department of Commerce. The rate currently ranges from $86,715 to $104,000 per annum. The salary may be increased not more than once a year, based on performance. The increase is limited to a maximum of 4%.

In addition to their salary, EICs may be awarded bonuses for their performance. For FY 1991, almost all of the EICs received such bonuses.

For comparison, the pay scale for Group Directors in the examining corps currently ranges from $90,000 to $108,300 per annum.

E. Statistics

Some exemplary statistics relating to the caseload of BPAI for the last thirteen years are set forth in the following table: [1]

[1] Statistics, unless otherwise stated, are taken from the Patent & Trademark Office, U.S. Dep't of Commerce, Commissioner of Patents and Trademarks Annual Reports.

Fiscal year	EICs [2]		Case disposed of		Cases pending at year end	
	Ex parte	Inter partes	Ex parte	Inter partes	Ex parte	Inter partes
1979	31	7	3,944	258	4,589	643
1980	28	7	3,437	301	4,563	588
1981	26	7	3,466	268	4,968	531
1982	26	7	3,693	242	4,781	482
1983	27	7	3,398	242	5,061	420
1984	26	7	3,716	245	5,898	367
1985 [3]	28	6	3,692	206	7,018	320
1986	28	7	3,761	184	8,237	302
1987 [4]	33	7	4,811	152	7,846	329
1988	40	7	5,809	182	6,307	343
1989	41	7	5,595	166	4,542	386
1990	37	7	5,210	222	2,688	347
1991	35	8	4,747	235	1,590	324

[2] From the records of BPAI.
[3] The Board of Appeals and the Board of Patent Interferences were merged on February 8, 1985, to become BPAI.
[4] First Full year in which EICs were subject to a criterion, in their performance appraisal plans, of number of opinions written.

II. The Trademark Trial and Appeal Board

A. History

Prior to 1958, applicants for the registration of trademarks sought registration in the first instance with a trademark examiner in the Trademark Division of the Patent Office and then, if denied registration, could appeal to the Commissioner of Patents.

In 1958, Congress, for *ex parte* examinations of applications, replaced the right to appeal to the Commissioner an examiner's decision refusing registration with the right to appeal to a panel of three members of the "Trademark Trial and Appeal Board" (TTAB). The TTAB was to be comprised of the Commissioner of Patents, The Assistant Commissioners, and appointed Patent Office employees, and panels were to be designated by the Commissioner. H.R. 8826, 72 Stat. 540; 15 U.S.C. 1067; See also 1958 U.S.C.C.A.N. 3331–37; Jerome Gilson, *Trademark Protection and Practice* 3.05(1)(a), 3–115–16 (1991). For *Inter partes* trademark proceedings, *i.e.* interferences, cancellation and opposition proceedings, Congress established a procedure in which the initial and only decision was made by a panel of three members of TTAB. 1958 U.S.C.C.A.N. 3331–37; 15 U.S.C. 1067.

B. Present Status

As presently constituted, TTAB is comprised of the Commissioner, the Deputy Commissioner, the Assistant Commissioners appointed under 35 U.S.C. 3, and additional members appointed by the Commissioner, which members must be competent in trademark law. 15 U.S.C. 1067. The Commissioner has authority to designate the members of TTAB for each case to be decided. *Id.* As of June 1, 1992, there were nine members of TTAB, including its Chairman.

The relationship between the Commissioner and TTAB and the structure and operation of TTAB are generally similar to the relationship between the Commissioner and BPAI and the structure and operation of BPAI, as set forth above.

C. Performance Requirements

As in the case of members of BPAI, 5 U.S.C. 4302 mandates yearly performance appraisals for TTAB members. Similarly, too, the work of TTAB, with respect to quality, timeliness and productivity, has an impact on trademark pendency and other aspects of the mission of PTO.

The current performance appraisal plan for TTAB members (aside from the Chairman) includes three "weighted" elements. The elements and their respective weights are set forth below, followed by a brief explanation:

(1) *Performance of duties as lead decision writer in adjudication panels* (65% of total appraisal). Requirement: prepare timely and well-reasoned decisions in cases requiring a final decision from TTAB.

(2) *Performance of duties as a member of adjudicative panels without decision-writing responsibilities* (25% of total appraisal). Requirement: timely and thoroughly review

opinions prepared by co-panel TTAB members.

(3) *Participation in educational, scholarly, public assistance, and system improvement activities in the trademark law field* (10% of total appraisal). Requirement: enhance the member's and the Bar's Understanding in trademark law and procedure generally).

One of the factors used to arrive at a rating for element (1) is the total number of decisions written by a TTAB member for the fiscal year under consideration. A productivity "range" is established for the members by the Commissioner in consultation with the Chairman. The range is based upon a five-year historical average of the number of decisions authored by the members. Further, any mitigating circumstance(s) brought to the attention of the Chairman are taken into consideration with respect to element (1). Examples include unusually difficult cases, *i.e.*, cases which are more than ordinarily complex, require an unusual amount of research, or involve an extensive evidentiary record.

In addition to productivity, the quality and timeliness of decisions written are also factors included in element (1). In many instances, ratings for members have been higher than they would have been if the productivity range were the sole criterion in element (1), *i.e.*, if other factors were not taken into consideration.

D. Compensation

Appointed members of TTAB are paid pursuant to the Federal Employees Pay Comparability Act of 1990 and guidelines issued by the Department of Commerce. The rate currently ranges from $77,080 to $98,600 per annum. As in the case of the BPAI, the salary may be increased not more than once a year, based on performance, and the increase is limited to a maximum of 4%.

In addition to their salaries, TTAB members may be awarded bonuses for their performance. For FY 1991, almost all of the members received such bonuses.

E. Statistics

Some exemplary statistics relating to the caseload of TTAB for the last thirteen years are set forth in the following table: [5]

[5] Statistics, unless otherwise stated, are taken from the Patent and Trademark Office, U.S. Dep't of Commerce, Commissioner of Patents and Trademarks Annual Reports.

Fiscal year	No. on TTAB [6]	Cases disposed of		Cases pending at year end	
		Ex parte	Inter partes	Ex parte	Inter partes
1979	4	198	1,919	229	2,393
1980	4	226	1,534	193	2,105
1981	5	177	1,417	256	2,688
1982	7	528	1,834	434	2,956
1983	8	990	2,028	353	3,225
1984	8	652	1,822	573	3,764
1985	7	569	2,221	778	4,938
1986	8	791	3,032	728	5,095
1987	8	522	2,784	836	4,670
1988	8	484	3,119	868	4,729
1989	8	490	3,152	939	4,653
1990	9	477	3,284	1,067	5,022
1991	9	543	3,212	1,167	5,670

[6] From the records of the TTAB.

Matters on Which Comments are Invited

Proposals have been made suggesting significant restructuring of the BPAI, and/or restructuring the relationship between the BPAI and the Commissioner.

In order to assist the Commissioner in his review of these matters and others, and to ensure that the views of the public and the patent and trademark user community are available for full consideration, comments as to the desirability of modifying or restructuring the boards and the review process are invited. Comments or suggestions relating to these matters should take into account and address at least the following questions:

1. The Commissioner has the responsibility to oversee policy and legal matters respecting the granting of patents and the registration of trademarks. What is the best organizational structure and relationship between the Commissioner and the boards through which the Commissioner may carry out that responsibility in the context of the functions which the boards serve?

2. Members of the PTO boards are currently held accountable for the quality and timeliness of their work, as well as their overall productivity. What is the best organizational structure and management arrangement for ensuring that board members effectively adhere to reasonable performance criteria in the context of any proposed modifications in the existing relationship between the boards and the Commissioner?

Dated: July 10, 1992.

Douglas B. Comer,

Acting Assistant Secretary and Acting Commissioner of Patents and Trademarks.

[FR Doc. 92–18122 Filed 7–31–92; 8:45 am]

BILLING CODE 3510–16–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Department of Defense Wage Committee; Closed Meetings

Pursuant to the provisions of section 10 Public Law 92–463, the Federal Advisory Committee Act, notice is hereby given that a meeting of the Department of Defense Wage Committee will be held on Tuesday, September 1, 1992; Tuesday, September 8, 1992; Tuesday, September 15, 1992; Tuesday, September 22, 1992; and Tuesday, September 29, 1992, at 2 p.m. in Room 800, Hoffman Building #1, Alexander, Virginia.

The Committee's primary responsibility is to consider and submit recommendations to the Assistant Secretary of Defense (Force Management and Personnel) concerning

all matters involved in the development and authorization of wage schedules for federal prevailing rate employees pursuant to Public Law 92–392. At this meeting, the Committee will consider wage survey specifications, wage survey data, local wage survey committee reports and recommendations, and wage schedules derived therefrom.

Under the provisions of section 10(d) of Public Law 92–463, meetings may be closed to the public when they are "concerned with matters listed in 5 U.S.C. 552b." Two of the matters so listed are those "related solely to the internal personnel rules and practices of an agency," (5 U.S.C. 552b(c)(2)), and those involving "trade secrets and commercial or financial information obtained from a person and privileged or confidential" (5 U.S.C. 552b(c)(4)).

Accordingly, the Deputy Assistant Secretary of Defense (Civilian Personnel Policy/Equal Opportunity) hereby determines that all portions of the meeting will be closed to the public because the matters considered are related to the internal rules and practices of the Department of Defense (5 U.S.C. 552b(c)(2)), and the detailed wage data considered were obtained from officials of private establishments with a guarantee that the data will be held in confidence (5 U.S.C. 552b(c)(4)).

However, members of the public who may wish to do so are invited to submit material in writing to the chairman concerning matters believed to be deserving of the Committee's attention.

Additional information concerning this meeting may be obtained by writing the Chairman, Department of Defense Wage Committee, room 3D264, the Pentagon, Washington, DC 20310.

Dated: July 29, 1992.

L.M. Bynum,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 92–18264 Filed 7–31–92; 8:45 am]

BILLING CODE 3810–01–M

Department of the Navy

Privacy Act of 1974; Amend Record Systems

AGENCY: Department of the Navy, DOD.

ACTION: Amend record systems.

SUMMARY: The Department of the Navy proposes to amend three existing systems of records to its inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended.

DATES: The amendments will be effective on September 2, 1992, unless comments are received that would result in a contrary determination.

ADDRESSES: Send comments to the Head, PA/FOIA Branch, Office of the Chief of Naval Operations (OP–09B30), Department of the Navy, The Pentagon, Washington, DC 20350–2000.

FOR FURTHER INFORMATION CONTACT: Mrs. Gwendolyn Aitken at (703) 614–2004.

SUPPLEMENTARY INFORMATION: The Department of the Navy systems of records notices for records systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, were published in the Federal Register as follows:

51 FR 12908, Apr. 16, 1986
51 FR 18086, May 16, 1986 (DON Compilation changes follow)
51 FR 19884, Jun. 3, 1986
51 FR 30377, Aug. 26, 1986
51 FR 30393, Aug. 26, 1986
51 FR 45931, Dec. 23, 1986
52 FR 2147, Jan. 20, 1987
52 FR 2149, Jan. 20, 1987
52 FR 8500, Mar. 18, 1987
52 FR 15530, Apr. 29, 1987
52 FR 22671, Jun. 15, 1987
52 FR 45846, Dec. 2, 1987
53 FR 17240, May 16, 1988
53 FR 21512, Jun. 8, 1988
53 FR 25363, Jul. 6, 1988
53 FR 39499, Oct. 7, 1988
53 FR 41224, Oct. 20, 1988
54 FR 8322, Feb. 28, 1989
54 FR 14378, Apr. 11, 1989
54 FR 32682, Aug. 9, 1989
54 FR 40160, Sep. 29, 1989
54 FR 41495, Oct. 10, 1989
54 FR 43453, Oct. 25, 1989
54 FR 45781, Oct. 31, 1989
54 FR 48131, Nov. 21, 1989
54 FR 51784, Dec. 18, 1989
54 FR 52976, Dec. 26, 1989
55 FR 21910, May 30, 1990 (Updated Mailing Addresses)
55 FR 37930, Sep. 14, 1990
55 FR 42758, Oct. 23, 1990
55 FR 47508, Nov. 14, 1990
55 FR 48678, Nov. 21, 1990
55 FR 53167, Dec. 27, 1991
56 FR 424, Jan. 4, 1991
56 FR 12721, Mar. 27, 1991
56 FR 27503, Jun. 14, 1991
55 FR 28144, Jun. 19, 1991
56 FR 31394, Jul. 10, 1991 (DOD Updated Indexes)
56 FR 40877, Aug. 16, 1991
56 FR 46167, Sep. 10, 1991
56 FR 59217, Nov. 25, 1991
56 FR 63503, Dec. 4, 1991
57 FR 2719, Jan. 23, 1992
57 FR 2726, Jan. 23, 1992
57 FR 2898, Jan. 24, 1992
57 FR 5430, Feb. 14, 1992
57 FR 9246, Mar. 17, 1992
57 FR 12914, Apr. 14, 1992
57 FR 14698, Apr. 22, 1992
57 FR 18472, Apr. 30, 1992
57 FR 26422, Jun. 10, 1992
57 FR 26821, Jun. 16, 1992
57 FR 28499, Jun. 25, 1992
57 FR 28502, Jun. 25, 1992
57 FR 31700, Jul. 17, 1992

The amendments are not within the purview of subsection (r) of the Privacy Act of 1974 (5 U.S.C. 552a), as amended, which requires the submission of altered systems reports. The specific changes to the systems of records are set forth below followed by the systems of records notices published in their entirety, as amended.

Dated: July 29, 1992.

L. M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

N05520–2

SYSTEM NAME:

Listing of Personnel-Sensitive Compartmented Information, (51 FR 18156, May 16, 1986).

CHANGES:

* * * * *

SYSTEM LOCATION:

Delete entry and replace with "Naval Research Laboratory, Washington, DC 20375–5000."

* * * * *

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Delete entry and replace with "5 U.S.C. 301, Departmental Regulations and Executive Order 9397."

* * * * *

STORAGE:

At end of entry, add "and floppy disks."

* * * * *

RETENTION AND DISPOSAL:

Delete entry and replace with "Records are maintained for as long as individual is authorized access. Records are updated as changes occur. Magnetic tape and floppy disks are erased as required."

* * * * *

NOTIFICATION PROCEDURE:

Delete entry and replace with "Individuals seeking to determine whether this system of records contains information about themselves should address written inquiries to the Special Security Officer, Naval Research Laboratory, Washington, DC 20375–5000.

The written request should contain full name, Social Security Number, and affiliation with NRL, or visit the NRL Special Security Office with NRL pass as identification."

RECORD ACCESS PROCEDURES:

Delete entry and replace with "Individuals seeking access to records

contained in this system of records should address written inquiries to the Special Security Officer, Naval Research Laboratory, Washington, DC 20375–5000.

The written request should contain full name, Social Security Number, and affiliation with NRL, or visit the NRL Special Security Office with NRL pass as identification."

CONTESTING RECORD PROCEDURES:

Delete entry and replace with "The Department of the Navy rules for accessing records and contesting contents and appealing initial determinations by the individual concerned are published in Secretary of the Navy Instruction 5211.5; 32 CFR part 701; or may be obtained from the system manager."

RECORD SOURCE CATEGORIES:

Delete entry and replace with "The individual and indoctrination documents."

* * * * *

N05520–2

SYSTEM NAME:

Listing of Personnel-Sensitive Compartmented Information.

SYSTEM LOCATION:

Naval Research Laboratory, Washington, DC 20375–5000.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals within the Naval Research Laboratory (NRL) indoctrinated for access to Sensitive Compartmented Information (SCI).

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, affiliation with NRL, billet description, clearances authorized, clearances held, rank, Social Security Number, Background Investigation date, date of birth, place of birth, date of marriage, place of marriage.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, Departmental Regulations and Executive Order 9397.

PURPOSE(S):

To record and monitor the Naval Research Laboratory (NRL) SCI billet structure (personnel authorized to be indoctrinated for SCI).

To control and monitor access to sensitive compartmented information facilities.

To maintain records of NRL personnel visiting other commands as well as personnel from other activities who visit NRL on SCI visits.

To maintain a listing of SCI materials signed out on sub-custody to division personnel for inventory control.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The "Blanket Routine Uses" that appear at the beginning of the Department of the Navy's compilation of systems notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Magnetic tape and floppy disks.

RETRIEVABILITY:

Name, Social Security Number, affiliation with NRL, assigned billet number.

SAFEGUARDS:

Three combination security container and/or vault.

RETENTION AND DISPOSAL:

Records are maintained for as long as individual is authorized access. Records are updated as changes occur. Magnetic tape and floppy disks are erased as required.

SYSTEM MANAGER(S) AND ADDRESS:

Special Security Officer, Naval Research Laboratory, Washington, DC 20375–5000.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information about themselves should address written inquiries to the Special Security Officer, Naval Research Laboratory, Washington, DC 20375–5000.

The written request should contain full name, Social Security Number, and affiliation with NRL, or visit the NRL Special Security Office with NRL pass as identification.

RECORD ACCESS PROCEDURES:

Individuals seeking access to records contained in this system of records should address written inquiries to the Special Security Officer, Naval Research Laboratory, Washington, DC 20375–5000.

The written request should contain full name, Social Security Number, and affiliation with NRL, or visit the NRL Special Security Office with NRL pass as identification.

CONTESTING RECORD PROCEDURES:

The Department of the Navy rules for accessing records and contesting contents and appealing initial determinations by the individual concerned are published in Secretary of the Navy Instruction 5211.5; 32 CFR part 701; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

The individual and indoctrination documents.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

N06530–1

SYSTEM NAME:

Blood Donor Program Files, (51 FR 18193, May 16, 1986).

CHANGES:

SYSTEM NAME:

Delete the word "Program"

SYSTEM LOCATION:

Delete entry and replace with "Organizational elements of the Department of the Navy. Official mailing addresses are published as an appendix to the Navy's compilation of systems of records notices."

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Delete entry and replace with "Personnel donating blood or seeking replacement of blood."

CATEGORIES OF RECORDS IN THE SYSTEM:

Delete entry and replace with "Blood donation and blood replacement requirement records."

* * * * *

PURPOSE(S):

Delete entry and replace with "To record emergency blood requests by blood type, identify donors, replace blood provided to cover individuals, and to meet regulatory requirements imposed by the Food and Drug Administration."

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Delete first paragraph.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Delete entry and replace with "Computerized and paper records."

RETRIEVABILITY:

Delete entry and replace with "Name and Social Security Number."

SAFEGUARDS:

Add second sentence which reads "Computerized information is password protected."

RETENTION AND DISPOSAL:

Delete entry and replace with "Records are retained for three years and then destroyed."

SYSTEM MANAGER(S) AND ADDRESS:

Delete entry and replace with "Policy Official: Chief, Bureau of Medicine & Surgery, Washington, DC 20372–5120.

The system manager is the Commanding officer of the activity in question. Official mailing addresses are published as an appendix to the Navy's compilation of systems of records notices."

NOTIFICATION PROCEDURE:

Delete entry and replace with "Individuals seeking to determine whether this system of records contains information about themselves should address written inquiries to the commanding officer of the activity where assigned.

The request should contain full name, Social Security Number, and must be signed."

RECORD ACCESS PROCEDURES:

Delete entry and replace with "Individuals seeking access to records contained in this system of records should address written inquiries to the commanding officer of the activity where assigned.

The request should contain full name, Social Security Number, and must be signed."

CONTESTING RECORD PROCEDURES:

Delete entry and replace with "The Department of the Navy rules for accessing records and contesting contents and appealing initial determinations by the individual concerned are published in Secretary of the Navy Instruction 5211.5; 32 CFR part 701; or may be obtained from the system manager."

* * * * *

N06530–1

SYSTEM NAME:

Blood Donor Files.

SYSTEM LOCATION:

Organizational elements of the Department of the Navy. Official mailing addresses are published as an appendix to the Navy's compilation of systems of records notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Personnel donating blood or seeking replacement of blood.

CATEGORIES OF RECORDS IN THE SYSTEM:

Blood donation and blood replacement requirement records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, Departmental Regulations; 21 U.S.C. 600–799; and Executive Order 9397.

PURPOSE(S):

To record emergency blood requests by blood type, identify donors, replace blood provided to cover individuals, and to meet regulatory requirements imposed by the Food and Drug Administration.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The "Blanket Routine Uses" that appear at the beginning of the Department of the Navy's compilation of systems notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Computerized and paper records.

RETRIEVABILITY:

Name and Social Security Number.

SAFEGUARDS:

Access provided on a need to know basis only. Computerized information is password protected and maintained is a locked and/or guarded office.

RETENTION AND DISPOSAL:

Records are retained for three years and then destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Policy Official: Chief, Bureau of Medicine and Surgery, Washington, DC 20372–5120.

The system manager is the Commanding officer of the activity in question. Official mailing addresses are published as an appendix to the Navy's compilation of systems of records notices.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information about themselves should address written inquiries to the commanding officer of the activity where assigned.

The request should contain full name, Social Security Number, and must be signed.

RECORD ACCESS PROCEDURES:

Individuals seeking access to records contained in this system of records should address written inquiries to the commanding officer of the activity where assigned.

The request should contain full name, Social Security Number, and must be signed.

CONTESTING RECORD PROCEDURES:

The Department of the Navy rules for accessing records and contesting contents and appealing initial determinations by the individual concerned are published in Secretary of the Navy Instruction 5211.5; 32 CFR part 701; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

American Red Cross, blood donors, hospitals, persons seeking replacement of blood.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

N12950–3

SYSTEM NAME:

Payroll and Employee Benefits Records, (54 FR 45786, October 31, 1989).

CHANGES:

SYSTEM NAME:

Delete the words "Payroll and".

SYSTEM LOCATION:

Delete entry and replace with "Commander, Navy Exchange Service Command, Naval Station New York, Staten Island, NY 10305–5097 (for all Navy Exchanges)."

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Delete entry and replace with "Civilian employees and former civilian employees with the Navy Exchange Service Command and Navy Exchanges located worldwide. Payroll and benefits information for current and former civilian employees of Coast Guard exchanges, clubs and messes."

CATEGORIES OF RECORDS IN THE SYSTEM:

Delete entry and replace with "Leave accrual reports; earnings records; insurance records and reports regarding property damage, personal injury or death, group life, disability, medical and retirement plan records."

* * * * *

PURPOSE(S):

Delete entry and replace with "To record contributions to benefit plans; to process all insurance claims; to calculate retirement benefits upon request of employees."

* * * * *

STORAGE:

Delete entry and replace with "The media in which these records are maintained vary, but include: Computer records (Local Area Network (LAN) File Server); card files; file folders; ledgers; microfiche; and printed reports."

RETRIEVABILITY:

Delete entry and replace with "Name and/or Social Security Number and employee payroll number."

SAFEGUARDS:

Delete entry and replace with "Locked file cabinets; safes; locked offices which are supervised by appropriate personnel, when open; and security guards."

RETENTION AND DISPOSAL:

Delete entry and replace with "Permanent."

SYSTEM MANAGER(S) AND ADDRESS:

Delete entry and replace with "Policy Official: Commander, Navy Exchange Service Command, Naval Station New York, Staten Island, NY 10305–5097.

Record Holder Manager: Risk Management and Workers Compensation Branch (TD2); Insurance/ Employee Benefits Branch (HRG4), Navy Exchange Service Command, Naval Station New York, Staten Island, NY 10305–5097."

NOTIFICATION PROCEDURE:

Delete first paragraph and replace with "Individuals seeking to determine whether this system of records contains information about themselves should address written inquiries to the Commander, Navy Exchange Service Command, Naval Station New York, Staten Island, NY 10305–5097."

RECORD ACCESS PROCEDURES:

Delete entry and replace with "Individuals seeking access to records about themselves contained in this system of records should address written inquiries to the Commander, Navy Exchange Service Command, Naval Station Staten Island, Staten Island, NY 10305–5097."

* * * * *

RECORD SOURCE CATEGORIES:

In line two, delete the words "payroll department;".

* * * * *

N12950–3

SYSTEM NAME:

Employee Benefits Records.

SYSTEM LOCATION:

Commander, Navy Exchange Service Command, Naval Station New York, Staten Island, NY 10305–5097 (for all Navy Exchanges).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Civilian employees and former civilian employees with the Navy Exchange Service Command and Navy Exchanges located worldwide. Payroll and benefits information for current and former civilian employees of Coast Guard exchanges, clubs and messes.

CATEGORIES OF RECORDS IN THE SYSTEM:

Leave accrual reports; earnings records; insurance records and reports regarding property damage, personal injury or death, group life, disability, medical and retirement plan records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, Departmental Regulations and Executive Order 9397.

PURPOSE(S):

To record contributions to benefit plans; to process all insurance claims; to calculate retirement benefits upon request of employees.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To the insurance carriers and the U.S. Department of Labor, Bureau of Employees Compensation to process employee compensation claims.

The "Blanket Routine Uses" that appear at the beginning of the Department of the Navy's compilation of systems notices also apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

The media in which these records are maintained vary, but include: Computer records (Local Area Network (LAN) File Server); card files; file folders; ledgers; microfiche; and printed reports.

RETRIEVABILITY:

Name and/or Social Security Number and employee payroll number.

SAFEGUARDS:

Locked file cabinets; safes; locked offices which are supervised by appropriate personnel, when open; and security guards.

RETENTION AND DISPOSAL:

Permanent.

SYSTEM MANAGER(S) AND ADDRESS:

Policy Official: Commander, Navy Exchange Service Command, Naval Station New York, Staten Island, NY 10305–5097.

Record Holder Manager: Risk Management and Workers Compensation Branch (TD2); Insurance/ Employee Benefits Branch (HRG4), Navy Exchange Service Command, Naval Station New York, Staten Island, NY 10305–5097.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information about themselves should address written inquiries to the Commander, Navy Exchange Service Command, Naval Station New York, Staten Island, NY 10305–5097.

In the initial inquiry the requester must provide full name, Social Security Number, activity where last employed. A list of other offices the requester may visit will be provided after initial contact is made at the office listed above. At the time of a personal visit, requesters must provide proof of identity containing the requester's signature.

RECORD ACCESS PROCEDURES:

Individuals seeking access to records about themselves contained in this system of records should address written inquiries to the Commander, Navy Exchange Service Command, Naval Station Staten Island, Staten Island, NY 10305–5097.

CONTESTING RECORD PROCEDURES:

The Department of the Navy rules for accessing records and contesting contents and appealing initial determinations by the individual concerned are published in Secretary of the Navy Instruction 5211.5; 32 CFR part 701; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

The employee or former employee; the employee's supervisor and the employee's physician or insurance carrier's physician.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 92–18361 Filed 7–31–92; 8:45 am]
BILLING CODE 3810–01–F

DEPARTMENT OF EDUCATION

Advisory Committee on Testing in Chapter 1

AGENCY: Department of Education.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of the

second meeting of the Advisory Committee on Testing in Chapter 1. This notice also describes the functions of the Committee. Notice of this meeting is required under section 10(a)(2) of the Federal Advisory Committee Act. This document is intended to notify the general public of the opportunity to attend.

DATES AND TIMES: August 11, 1992—9 a.m.–5 p.m. August 12, 1992—9 a.m.–3 p.m.

ADDRESSES: Capitol Holiday Inn, 550 C Street, SW, Washington, DC 20024; (202) 479–4000.

FOR FURTHER INFORMATION CONTACT: Mary Jean LeTendre, Director, Compensatory Education Programs, Office of Elementary and Secondary Education, U.S. Department of Education, 400 Maryland Avenue, SW. (room 2043, FOB–6),, Washington, DC 20202–6132. Telephone: (202) 401–1682. 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 Advisory Committee on Testing in chapter 1 was established under section 442 of the General Education Provisions Act, as amended (20 U.S.C. 1233a). The Advisory Committee was established to advise the Secretary of Education on possible improvements or alternatives to the current testing procedures for measuring the academic achievement of chapter 1 students.

The meeting of the Committee is open to the public. The proposed agenda includes presentations from representatives of State educational agencies and test publishers on the need for improving current assessment procedures in Chapter 1 programs. There will also be deliberations on improving the appraisal of the delivery of educational services to Chapter 1 students by examining outcome measures.

Records of the Committee proceedings will be available in the office of the Advisory Committee on Testing in chapter 1, 400 Maryland Avenue, SW. (room 2043, FOB–6), Washington, DC 20202–7559, between 9 a.m. and 5 p.m., Eastern time.

John T. MacDonald,

Assistant Secretary for Elementary and Secondary Education.

[FR Doc. 92–18243 Filed 7–31–92; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Metal Casting Competitiveness Research Program

AGENCY: Idaho Field Office, Department of Energy.

ACTION: Amendment no. 1 solicitation for financial assistance: Metal casting competitiveness.

SUMMARY: The U.S. Department of Energy, Idaho Field Office, published a complete solicitation in the **Federal Register** (Vol. 57, No. 133, Page Numbers 30728 through 30731) on Friday, July 10, 1992. The solicitation requested applications on the basis of open competition, for cost-shared research and technology development in the U.S. metal casting industry. The purpose of Amendment No., 1 is to change the due date contained in Paragraph 2. a. Application Deadline (Page No. 30729). The deadline for receipt of applications is October 6, 1992 rather than September 21, 1992. Late applications will still be handled in accordance with 10 CFR 600.13.

ADDRESSES: Applications shall be submitted to:
(NUMBER DE–PS07–92ID13180)
J.O. Lee, Contracting Officer, Contracts Management Division, Financial Assistance Branch, 785 DOE Place, MS 1221, Idaho Falls, Idaho 83401–1562.
Contact Point: Ginger Sandwina, (208) 526–8698.
Solicitation: DE–PS07–92ID13180.
Procurement Request Number: 07–92ID13180.

Dated: July 21, 1992.

J.O. Lee,

Acting Director, Contracts Management Division.

[FR Doc. 92–18310 Filed 7–31–92; 8:45 am]

BILLING CODE 6450–01–M

Morgantown Energy Technology Center; Cooperative Agreement Renewal; Financial Assistance Award to University of Utah

AGENCY: Morgantown Energy Technology Center, Department of Energy (DOE).

ACTION: Notice of acceptance of a noncompetitive financial assistance renewal applicaton for a cooperative agreement award.

SUMMARY: Based upon a determination made pursuant to 10 CFR 600.7(b)(2)(i)(A) the DOE, Morgantown Energy Technology Center gives notice of its plans to award a Cooperative Agreement to University of Utah, Office of Sponsored Projects, 309 Park Building, Salt Lake City, Utah 84112. The Cooperative Agreement will cover a twelve (12) month research project with an associated budget of approximately $785,000, including the total cost sharing by the Participant and other parties of approximately 7.5 percent.

FOR FURTHER INFORMATION CONTACT: Beverly J. Harness, I–07, U.S. Department of Energy, Morgantown Energy Technology Center, P.O. Box 880, Morgantown, West Virginia 26507–0880, Telephone: (304) 291–4089, Procurement Request No. 21–92MC2628.502.

SUPPLEMENTARY INFORMATION: The pending award is based on an unsolicited renewal application for continuing work necessary to the satisfactory completion of an activity presently being funded by DOE and for which competition for support would have a significant adverse effect on the continuity or completion of the activity. The primary objective is to advance the technologies of the water-assisted and modified water-assisted, fluidized bed, fluidized-bed coupled heat-pipe combustor, sub and super critical solvent and rotary kiln bitumen extraction processes to the levels where evaluations of their respective commerical potentials are possible. In view of the previous federally sponsored research completed in this area, technical expertise of personnel, and ownership of patents on numerous recovery processes at the university of Utah, it has been determined that it is appropriate to award this Cooperative Agreement to the University of Utah on a noncompetitive basis.

Issued: July 27, 1992.

G. William Bolyard,

Acting Director, Acquisition and Assistance Division, Morgantown Energy Technology Center.

[FR Doc. 92–18309 Filed 7–31–92; 8:45 am]

BILLING CODE 6450–01–M

Federal Energy Regulatory Commission

[Docket No. RS92-65-000]

Kern River Gas Transmission Company; Conference

July 27, 1992.

Take notice that on Friday, August 14, 1992, at 10 a.m., a conference will be convened in the above-captioned docket to discuss Kern River Gas Transmission Company's (Kern River) summary of its proposed plan for implementation of Order No. 636.

The conference will be held in a hearing or conference room of the Federal Energy Regulatory Commission, 810 First Street, NE., Washington, DC 20426. All interested persons are invited to attend. Attendance at the conference, however, will not confer party status. For additional information, interested persons can call James Moody at (202) 208-2050 or Marilyn Rand at (202) 208-0327.

Lois D. Cashell,

Secretary.

[FR Doc. 92-18221 Filed 7-31-92; 8:45am]

BILLING CODE 6717-01-M

[Docket No. RS92-7-000]

Michigan Gas Storage Company; Pre-Compliance Filing Conference

July 27, 1992.

Take notice that a pre-compliance filing conference has been scheduled in the above-captioned proceeding for 10 a.m. on September 1, 1992 at the offices of the Federal Energy Regulatory Commission, 810 First Street, NE., Washington, DC 20426.

The purpose of this conference is to describe and discuss Michigan Gas Storage Company's compliance filing in response to Order No. 636.

All interested parties are invited to attend. Attendance at the conference, however, will not confer party status. For additional information, interested parties can call William M. Lange at (202) 293-5795.

Lois D. Cashell,

Secretary.

[FR Doc. 92-18219 Filed 7-31-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. ER92-372-000, ER92-439-000, ER92-600-000, and ER92-602-000]

New England Power Company; Filing

July 28, 1992.

Take notice that on July 6, 1992, New England Power Company (NEP) tendered for filing its response to staff's concerns regarding the short-term unit power contracts filed in the above-referenced docket.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before August 7, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 92-18222 Filed 7-31-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP92-137-000]

Transcontinental Gas Pipe Line Corporation; Technical Conference

July 27, 1992.

In the Commission's orders issued on April 9, 1992 and May 8, 1992, in the above-captioned proceeding, the Commission held that the filing raises issues for which a technical conference is to be convened. The conference to address the issues has been scheduled for Tuesday, August 11, 1992, at 10 a.m. in a room to be designated at the offices of the Federal Energy Regulatory Commission, 810 First Street, NE., Washington, DC 20426.

All interested persons and Staff are permitted to attend.

Lois D. Cashell,

Secretary.

[FR Doc. 92-18220 Filed 7-31-92; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[FRL-4191-4]

National Emission Standards for Hazardous Air Pollutants; Compliance Extensions for Early Reductions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of complete enforceable commitments received.

SUMMARY: This notice provides a list of companies that have submitted "complete" enforceable commitments to the EPA under the Early Reductions Provisions (section 112(i)(5) of the Clean Air Act (CAA) as amended in 1990. The list covers commitments determined by the EPA to be complete through the month of May 1992 and includes the name of each participating company, the associated emissions source location, and the EPA Regional Office which is the point of contact for further information. This is the second of a series of notices of this type. The first was published in the May 15, 1992, issue of the **Federal Register** (57 FR 20824) and covered the period through March 31, 1992. No enforceable commitments were determined to be complete during April 1992 and, therefore, no notice was published for that month. The EPA will publish additional lists of complete submittals on a monthly basis, as needed.

FOR FURTHER INFORMATION CONTACT: David Beck (telephone: 919-541-5421), Rick Colyer (telephone: 919-541-5262), or Mark Morris (telephone: 919-541-5416), Emission Standards Division (MD-13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711 for general information on the Early Reductions Program. For further information on specific submittals received under the Early Reductions Program contact the appropriate EPA Regional Office representative listed below.

Region I	—Janet Beloin	(617) 565-2734
Region II	—Umesh Dholakia, or Harish Patel	(212) 264-6676
Region III	—Jim Baker	(215) 597-3499
Region IV	—Anthony Toney	(404) 347-2864
Region V	—John Pavitt	(312) 886-6858
Region VI	—Tom Driscoll, or Tanya Murray	(214) 655-7549
		(214) 655-7547
Region VII	—Donna Dees	(913) 551-7625
Region VIII	—Laura Lonowski	(303) 293-1761
Region IX	—Ken Bigos	(415) 744-1240
Region X	—Chris Hall	(206) 553-1949

SUPPLEMENTARY INFORMATION: Under section 112(i)(5) of the Clean Air Act (CAA) as amended in 1990, an existing source of hazardous air pollutant emissions may obtain a 6-year extension of compliance with an emission standard promulgated under section 112(d) of the CAA, if the source achieves sufficient reductions of hazardous air pollutant emissions prior to certain dates. On June 13, 1991, the EPA published a proposed rule to implement this "Early Reductions" provision (56 FR 27338). A final rule will be issued shortly.

Sources choosing to participate in the Early Reductions Program must document base year emissions and post-reduction emissions to show that sufficient emission reductions have been achieved to qualify for a compliance extension. As a first step toward this demonstration, some sources may be required to submit an enforceable commitment containing base year emission information, or if not required, may voluntarily submit such emission information to the EPA for approval. As stated in the proposed Early Reductions rule, the EPA will review these submittals to verify emission information, and also will provide the opportunity for public review and comment. Following the review and comment process and after sources have had the chance to revise submittals (if necessary), the EPA will approve or disapprove the base year emissions.

To facilitate the public review process for program submittals, the proposed rule contains a commitment by the EPA to give monthly public notice of submittals received which have been determined to be complete and which are about to undergo technical review within the EPA. Members of the public wishing to obtain more information on a specific submittal then may contact the appropriate EPA Regional Office representative listed above. Approximately sixty submittals have been received by the EPA, although only three have been determined to be complete to date. The first two were listed in the initial notice of this series which covered the period through March 31, 1992, and appeared in the May 15, 1992, issue of the **Federal Register**. No submittals were determined to be complete during April 1992 and no notice was published covering that period. The purpose of today's notice is to add Johnson and Johnson Medical, Inc. to the previously published list of companies that have submitted enforceable commitments determined complete by the EPA under the Early Reductions Program. As the remaining submittals are determined to be complete, they will appear in subsequent monthly notices.

At a later time (most likely within one to three months of today's date), the EPA Regional Offices will provide a formal opportunity for the public to comment on the submittal added to the list by today's notice. To do this, the Regional Office will publish a notice in the source's general area announcing that a copy of the source's submittal is available for public inspection and that comments will be received for a 30 day period.

The table below lists those companies that have made complete enforceable commitments or base year emission submittals under the Early Reductions Program through May 31, 1992. These submittals are undergoing technical review within the EPA at this time.

TABLE 1 COMPLETE ENFORCEABLE COMMITMENTS AS OF MAY 31, 1992

Company	Location	EPA region
1. Kalama Chemical, Inc.	Kalama, Washington.	X
2. Amoco Chemical Co.	Texas City, Texas....	VI
3. Johnson & Johnson Medical, Inc.	Sherman, Texas	VI

Dated: July 27, 1992.

Michael Shapiro,

Acting Assistant Administrator for Air and Radiation.

[FR Doc. 92-18300 Filed 7-31-92; 8:45 am]

BILLING CODE 6560-50-M

[FRL-4191-3]

Ozone Design Value Study of the Clean Air Act Amendments of 1990

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of public meeting.

SUMMARY: Section 183(g) of title I of the Clean Air Act Amendments of 1990 requires the Administrator to conduct a study of whether the methodology in use by the Environmental Protection Agency (EPA) as of the date of enactment for establishing a design value for ozone provides a reasonable indicator of the ozone air quality of ozone nonattainment areas. The EPA is directed to obtain input from States, local subdivisions thereof and others.

The focus of the Ozone Design Value Study is on EPA's ozone design value methodology. A design value may be viewed intuitively as a concentration value used to quantify by how much the level of an air quality standard has been exceeded. With the wording of the ozone standard the appropriate design value is the concentration with expected number of exceedances equal to 1. These ozone design values were used to classify areas as marginal, moderate, serious, severe, or extreme in accordance with the provisions of the 1990 Clean Air Act Amendments.

This notice announces EPA's intent to conduct a 1-day public meeting to receive public input on technical considerations, and implementation and policy issues to be addressed within the context of the ozone design value study. Written comments will be received prior to, or on the day of the meeting.

DATES: The public meeting will he held September 10, 1992 from 9 a.m. to 5 p.m.

ADDRESSES: The public meeting will be held at the Marriott Crystal Gateway Hotel at 1700 Jefferson Davis Highway in Arlington, Virginia 22202 (Phone No. (703) 920-3230). To assist in developing the agenda for the public meeting, persons interested in making a brief oral presentation (up to 15 minutes) should contact Ms. Helen Hinton at (919) 541-5558, telefax (919) 541-2357, Mail Drop 14, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina, 27711 to give their name and affiliation. Registration closes on September 1, 1992. Written comments should be submitted to Ms. Hinton.

AVAILABILITY OF BACKGROUND PAPER: The paper "The Clean Air Act Ozone Design Value Study" by Dr. Thomas C. Curran provides background information on the nature and scope of the study. The paper was presented at the Air and Waste Management Association Tropospheric Ozone and the Environment II Conference on November 6, 1991 in Atlanta, Georgia. Single copies of the paper are available from the U.S. EPA Library (MD-35), Research Triangle Park, North Carolina 27711, telephone number (919) 541-2777. Please refer to "The Clean Air Act Ozone Design Value Study".

FOR FURTHER INFORMATION CONTACT: Mr. Warren P. Freas at (919) 541-5558, Data Analysis Section, Monitoring and Reports Branch (MD-14), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711.

Dated: July 27, 1992.

Michael Shapiro,

Acting Assistant Administrator for Air and Radiation.

[FR Doc. 92-18299 Filed 7-31-92; 8:45 am]

BILLING CODE 6560-50-M

[FRL-4190-9]

Subcommittee of State and Local Environment Committee, National Advisory Council for Environmental Policy and Technology (NACEPT); Open Meeting

Under Public Law 92-463 (The Federal Advisory Committee Act) the U.S. Environmental Protection Agency (EPA) gives notice of a meeting of a subcommittee of the State and Local Environment Committee. The State and Local Environment Committee of NACEPT is seeking ways to enhance the effectiveness of the environmental management system in the United States and makes recommendations to the Administrator based on NACEPT's fact-finding and deliberative activities. The Pollution Prevention Clearinghouse Subcommittee will advise the Agency on the national role the Pollution Prevention Information Clearinghouse (PPIC) in information exchange to promote pollution prevention.

This is the first meeting of the Clearinghouse Subcommittee under NACEPT. This subcommittee will discuss the purpose and potential roles of a national clearinghouse on pollution prevention. Priority information needs for promoting pollution prevention in local and state arenas will be identified as well as the criteria that should be considered in establishing priorities for clearinghouse activities. This subcommittee consists of experts from State and local governments, other pollution prevention clearinghouses, academia, and industry.

The Pollution Prevention Information Clearinghouse (PPIC) was formally established by the Pollution Prevention Act of 1990. This Act required the establishment of a source reduction clearinghouse that would serve as a center of source reduction technology transfer, assist the states in education and outreach activities to further the adoption of source reduction technologies, and provide information to the public on pollution prevention.

The meeting is open to observation by the public and will take place in the Stouffer Concourse Hotel, 2399 Jefferson Davis Highway, Arlington, VA. The meeting will be held for a day and a half: Thursday, August 20, 1992 from 9 am to 5 pm and Friday August 21, from 8:30 am to 1 pm. Further information on the meeting can be obtained by calling Beth Anderson at 202/260-2602, or by sending a fax request to 202/260-0178.

Members of the public wishing to provide written comments on issues associated with the collection and dissemination of pollution prevention information can provide written comments to the Subcommittee no later than September 17, 1992. Please send comments to Beth Anderson, US EPA MC7409, 401 M Street SW., Washington, DC 20460.

Dated: July 28, 1992.

Abby J. Pirnie,

NACEPT Designated Federal Official.

[FR Doc. 92-18296 Filed 7-31-92; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA-950-DR]

Arkansas; Notice of Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

EFFECTIVE DATE: July 24, 1992.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Arkansas (FEMA-950-DR), dated July 24, 1992, and related determinations.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, DC 20472, (202) 646-3606.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated July 24, 1992, the President declared a major disaster under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 *et seq.*), as follows:

I have determined that the damage in certain areas of the State of Arkansas, resulting from severe thunderstorms and high winds on June 14, 1992, through June 19, 1992, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act ("the Stafford Act"). I, therefore, declare that such a major disaster exists in the State of Arkansas.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Public Assistance in the designated areas. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Public Assistance will be limited to 75 percent of the total eligible costs.

The time period prescribed for the implementation of section 310(a), Priority to Certain Applications for Public Facility and Public Housing Assistance, 42 U.S.C. 5153, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, I hereby appoint Leland R. Wilson of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the following areas of the State of Arkansas to have been affected adversely by this declared major disaster:

The counties of Clark, Hempstead, Nevada, and Ouachita for Public Assistance.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance.)

Wallace E. Stickney,

Director.

[FR Doc. 92-18285 Filed 7-31-92; 8:45 am]

BILLING CODE 6718-02-M

Meeting; Federal 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.

DATE OF MEETING: Thursday, August 6, 1992.

PLACE: Federal Emergency Management Agency, John W. Macy, Jr. Conference Room, room 829, 500 C Street, SW., Washington, DC 20472.

TIMES: 9 a.m. to 12 p.m.

PROPOSED AGENDA: Review the transcript and tasks from the last meeting; hear and discuss certain briefings from FEMA personnel; and make preparations for the next meeting, including assignment of tasks.

SUPPLEMENTARY INFORMATION: 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 August 4, 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 Government in the Sunshine Act, 5 U.S.C. 552(b)(c), because discussions may (1) disclose matters that are specifically authorized under criteria established by an Executive order to be kept secret in the interests of national defense, (2) relate solely to the internal personnel rules and practices of an agency, and (3) disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of privacy.

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: July 28, 1992.

Wallace E. Stickney,

Director.

[FR Doc. 92–18276 Filed 7–31–92; 8:45 am]

BILLING CODE 6918–01–M

FEDERAL FINANCIAL INSTITUTIONS EXAMINATION COUNCIL

Regulatory Treatment of Deferred Tax Assets

AGENCY: Federal Financial Institutions Examination Council.

ACTION: Request for comment.

SUMMARY: Under the auspices of the Federal Financial Institutions Examination Council (FFIEC), the Board of Governors of the Federal Reserve System (FRB), the Federal Deposit Insurance Corporation (FDIC), the Office of the Comptroller of the Currency (OCC), and the Office of Thrift Supervision (OTS) (referred to as the "agencies") are requesting comment on and considering various regulatory reporting and capital treatments for net deferred tax assets of federally supervised banks and savings associations ("depository institutions"). This request for comment is being issued in response to the adoption by the Financial Accounting Standards Board (FASB) of Statement No. 109, "Accounting for Income Taxes"("FASB 109"), in February 1992.

The alternatives under consideration by the agencies include: (1) Adopting all provisions of FASB 109 for purposes of reporting in the Consolidated Reports of Condition and Income (Call Reports) and Thrift Financial Report (TFR) and calculating regulatory capital, (2) adopting most provisions of FASB 109 for purposes of the Call Report and TFR, but prohibiting the reporting of that portion of net deferred tax assets that is not supported by the amount of taxes previously paid that are potentially recoverable through the carryback of net operating losses or tax credits, (3) adopting most provisions of FASB 109 for purposes of the Call Reports and TFR, but limiting the reporting of net deferred tax assets in a manner that is consistent with Accounting Principles Board Opinion No. 11, "Accounting for Income Taxes" ("APB 11"), and (4) adopting one of the above limitations on net deferred tax assets only for regulatory capital purposes rather than for both regulatory reporting and capital purposes. The agencies seek comment on whether, with respect to insured depository institutions, these approaches or any other approaches would be an appropriate supervisory response by the agencies to the new reporting guidance set forth in FASB Statement 109.

DATES: Comments must be received by September 2, 1990.

ADDRESSES: Comments should be directed to Joe M. Cleaver, Executive Secretary, Federal Financial Institutions Examination Council, 2100 Pennsylvania Avenue, NW., suite 200, Washington, DC 20037.

FOR FURTHER INFORMATION CONTACT: At the FRB: Gerald A. Edwards, Jr., Assistant Director (202) 452–2741, or Charles H. Holm, Supervisory Financial Analyst (202) 452–3502, Division of Banking Supervision and Regulation. At the FDIC: Robert F. Storch, Chief, Accounting Section, Division of Supervision (202) 898–8906. At the OCC: Eugene W. Green, Deputy Chief Accountant, or Stephen P. Theobald, Professional Accounting Fellow, (202) 874–5180. At the OTS: David H. Martens, Chief Accountant (202) 906–5646.

SUPPLEMENTARY INFORMATION:

I. Background

National banks, state member banks, and federally insured state nonmember banks are required to file quarterly Call Reports with the OCC, FRB, and FDIC, respectively. Savings associations are required to file TFRs with the OTS. In addition, each federally supervised financial institution is subject to the minimum capital standards issued by its primary federal regulator.

Section 1006(c) of the Federal Financial Institutions Examination Council Act authorizes the FFIEC to develop uniform reporting standards for federally supervised financial institutions. Section 1006(b) of the FFIEC Act directs the FFIEC to make recommendations to its member agencies for uniformity in supervisory matters. Therefore this request for comment is being proposed under the auspices of the FFIEC.

In addition, section 121 of the FDIC Improvement Act (FDICIA) indicates that the agencies shall maintain uniform accounting standards. Section 121 of the FDICIA also indicates that the accounting principles of the agencies should:

(A) result in financial statements and reports of condition that accurately reflect the capital of the institution;

(B) facilitate effective supervision of the institution; and

(C) facilitate prompt corrective action to resolve the institution at the least cost to the insurance funds.

If the agencies determine that the application of generally accepted accounting principles (GAAP) is inconsistent with these objectives, FDICIA permits the agencies to prescribe an accounting principle that is no less stringent than GAAP.

II. Discussion and Concerns

Characteristics of Net Deferred Tax Assets

Net deferred tax assets may arise because of specific limitations under tax laws of different tax jurisdictions that require that certain net operating losses (i.e., when, for tax purposes, expenses exceed revenues) or tax credits be carried forward if they cannot be used to recover taxes previously paid.[1] These net operating loss or tax credit carryforwards are realized only if the institution generates sufficient future taxable income during the carryforward period.

Net deferred tax assets may also arise from the tax effects of certain events that have been recognized in one period for financial statement purposes but will

[1] The term "net" deferred tax assets is used herein because FASB 109 permits the netting of deffered tax liabilities and assets within a particular tax-paying component of an enterprise and within a particular tax jurisdiction. Netting of deferred tax assets and liabilities attributable to different tax-paying components of the enterprise or to different tax jurisdictions is not permitted. The agencies intend to permit netting to the same extent that netting is permitted by FASB 109.

result in deductible amounts in future periods for tax purposes, i.e., the tax effects of deductible temporary differences. For example, many depository institutions may report higher income to taxing authorities than they reflect in their regulatory reports because of differences between tax reporting and financial reporting with respect to the treatment of the allowance for loan and lease losses.

Deferred tax assets, arising from an institution's deductible temporary differences, may exceed the amount of taxes previously paid that the institution could recover if the difference fully reversed at the report date. Thus, similar to net operating loss and tax credit carryforwards, these deductible temporary differences will be realized only if there is sufficient future taxable income during the carryforward period.[2]

Current Regulatory Policies and Progression of GAAP

In 1985, the OCC and FDIC issued supervisory policies that limited the reporting of net deferred tax assets (charges) in the Call Reports filed by national and insured state nonmember banks, respectively. The FDIC's policy, set forth in bank Letter BL–36–85, dated October 4, 1985, states:

> Banks are permitted to carry net deferred tax charges on their reports of condition to the extent that such tax charges do not exceed taxes previously paid which are potentially available through carryback of net operating losses (NOLs). A bank which is a member of a consolidated group for tax purposes (e.g., certain bank subsidiaries of holding companies) should generally calculate its NOL carryback potential based upon the assumption that it is filing a separate return. However, if the NOL carryback potential of the consolidated group is less than that of the banks (e.g., where other subsidiaries have experienced prior net operating losses), then the bank should further limit its net deferred tax charges to an amount which it could reasonably expect to have refunded by its parent. The OCC's policy, set forth in Banking Circular 202 dated July 2, 1985, includes language that is consistent with the FDIC policy. The OCC and FDIC adopted their supervisory policies because of concerns about the realizability of an institution's net deferred tax charges in excess of its net operating loss carryback potential.

With respect to the recognition of net operating loss carryforwards, the OCC's and FDIC's policies were generally consistent with APB 11, the GAAP standard in existence at the time these policies were issued. APB 11 did not allow the recognition of such benefits unless their realization was assured beyond any reasonable doubt. Furthermore, these two agencies' policies were generally consistent with FASB Statement No. 96, "Accounting for Income Taxes" ("FASB 96"), a GAAP standard issued in 1987, which some institutions subsequently adopted in lieu of APB 11.

The FRB and OTS did not issue policies explicitly addressing the recognition of net deferred tax assets. Consequently, state member banks and savings institutions were able to report net deferred tax assets in accordance with GAAP. Since the explicit guidelines issued by the OCC and FDIC were for the most part consistent with GAAP, the reporting criteria applicable to all depository institutions were similar.

In February 1992, the FASB issued Statement No. 109, which supersedes APB 11 and FASB 96. FASB 109 provides guidance on many aspects of accounting for income taxes, including the accounting for deferred tax assets. FASB 109 potentially allows some institutions to record significantly higher net deferred tax assets than previously permitted under GAAP. Statement 109 is effective for fiscal years beginning on or after December 15, 1992, but early adoption of this standard is encouraged by the FASB. The recording of additional net deferred tax assets in Call Reports and TFRs in accordance with FASB 109 would directly impact an institution's Tier 1 capital and earnings.

Contrary to the general practice under APB 11, FASB 96, and the policies off the OCC and FDIC, FASB 109 permits the reporting of deferred tax assets associated with net operating loss and tax credit carryforwards. Moreover, compared to these standards and policies, FASB 109 generally permits a more liberal recognition of net deferred tax assets arising from deductible temporary differences when the realization of deductible temporary differences is dependent upon taxable income during the carryforward period. However, FASB 109 requires the establishment of a valuation allowance that is intended to reduce the net deferred tax asset to an amount that is more likely than not (i.e., a greater than 50 percent likelihood) to be realized.

Arguments For and Against Regulatory Limitations on Net Deferred Tax Assets

Arguments can be made both for and against permitting institutions to recognize, in regulatory reports and for capital adequacy purposes, net deferred tax assets that are dependent upon future taxable income. On the one hand, institutions that are ultimately able to realize these net deferred tax assets will benefit from a reduction in the future tax payments that they otherwise would be obligated to make. For many healthy institutions, these benefits may eventually result in a realizable asset. Thus, from this perspective, it could be argued that some institutions should be able to report net deferred tax assets that are dependent upon future taxable income and increase their Tier 1 capital levels.

On the other hand, institutions that are unable to realize their net deferred tax assets may be more likely to pose a risk to the deposit insurance funds. Moreover, it may be difficult to accurately distinguish those institutions that will benefit from these assets from those that will not. The ultimate realization of a net deferred tax asset depends on the existence of taxable income during the carryback or carryforward period. The existence of taxable income and associated tax payments during the carryback period provides greater assurance that net deferred tax assets will be realized. In the absence of sufficient taxable income during the carryback period, realization of the net deferred tax asset depends on whether an institution has sufficient future taxable income during the carryforward period.

Since an institution that is in a net operating loss carryforward position is often experiencing financial difficulties, its prospects for generating sufficient taxable income in the future are at best uncertain. In addition, the condition of and future prospects for an institution often can and do change very rapidly in the environment in which depository institutions operate. This raises concerns about the realizability of net deferred tax assets that are dependent upon future taxable income, even when an institution appears on the surface to be sound and well-managed. Thus, for many institutions, such net deferred tax assets may not be realized and, for other institutions, there will be a high degree of subjectivity in determining the realizability of this asset.

In addition, as an institution's condition deteriorates, it is less likely that net deferred tax assets that are dependent upon future taxable income of the institution will be realized. Therefore, the institution would be expected under FASB 109 to reduce its net deferred tax assets through increases to the asset's valuation allowance. This reduces the institution's

[2] Net deferred tax assets that are associated with net operating loss or tax credit carryforwards and net deferred tax assets, arising from deductible temporary differences, that exceed the amount of taxes previously paid that the institution could recover if the differences fully reversed at the report date are hereafter referred to as "net deferred tax assets that are dependent upon future taxable income".

regulatory capital at precisely the time it needs capital support the most. Thus, the reporting of net deferred tax assets that are dependent upon future incomes raises, for safety and soundness reasons, a significant supervisory concern.

Moreover, net operating loss carryforwards of an acquired institution can be severely limited to the acquirer when an acquisition or change in control occurs. If an acquisition is structured as a taxable asset purchase, the net operating loss carryforwards are generally extinguished. In addition, if an acquisition or change in control qualifies as a tax-free reorganization, a strict limitation (Section 382 of the Internal Revenue Code) on the use of the acquired institution's NOL carryforwards generally applies. This limitation is based on the value of the acquired corporation at the time of its acquisition, and thus the potential value of a carryforward to a prospective purchaser tends to decline as the institution's financial condition weakens.

Because of these concerns, the agencies recently issued separate letters to the depository institutions under their supervision indicating that the institutions should not adopt FASB 109 or regulatory purposes until the appropriate regulatory reporting and capital treatment is determined.[3]

III. Alternative Approaches for Deferred Tax Assets

As part of their consideration of FASB 109, the agencies have determined to seek public comment on alternative treatments of net deferred tax assets for regulatory reporting and capital purposes. In general, the agencies believe that most provisions of FASB 109 are appropriate for supervisory purposes and can be adopted by the agencies for regulatory reporting purposes. However, the agencies are concerned about those provisions of FASB 109 that, as noted above, permit institutions to recognize net deferred tax assets that are dependent upon future taxable income. Therefore, the agencies are seeking public comment on the appropriate regulatory treatment for these assets. The alternatives under consideration by the agencies include:

1. Amending the Call Report and TFR instructions to adopt all aspects of FASB 109 for regulatory reporting (and capital adequacy) purposes. Because FASB 109 provides for a limitation on the recognition of net deferred tax assets through establishing a valuation allowance, it could be argued that the agencies might not need to provide for additional limitations on these assets. The reporting of this asset would be subject to review by examiners and, if applicable, an institution's external auditor. This approach has the advantage of maintaining consistency between GAAP and the regulatory reporting and capital treatment of net deferred tax assets. However, as noted above, the agencies are concerned that this alternative could result in an immediate and potentially significant reduction in capital at precisely the time the institution needs capital support the most.

A variation of this approach would be for the agencies to issue supervisory guidance on the determination of the amount of the valuation allowance needed for an institution's net deferred tax assets to supplement the guidance provided in FASB 109. Institutions exhibiting financial weaknesses are generally less likely to be able to realize this asset than institutions that are in a stronger financial condition. In order to provide greater protection to the deposit insurance funds and to provide more objectivity to the valuation process, this supervisory guidance would likely mandate valuation allowance levels for institutions experiencing financial difficulties. Thus, this supervisory guidance may not be entirely consistent with FASB 109. Furthermore, this approach does not necessarily alleviate the concern that capital would be reduced at the time the institution needs capital support the most.

2. Amending the Call Report and TFR instructions to adopt most aspects of FASB 109, but limiting the reporting of net deferred tax assets, net of their valuation allowance, to the amount of taxes previously paid that are potentially recoverable through the carryback of net operating losses or unrealized tax credits.[4] This approach would not be consistent with FASB 109. However, it would be consistent with the current supervisory policies of the FDIC and OCC. Furthermore, this approach would, for the most part, be consistent with the policies of the FRB and OTS, which permitted institutions to report net deferred tax assets in accordance with FASB 96 and APB 11. The agencies have long believed that such limitations on the reporting of net deferred tax assets are appropriate because of the concerns noted above with respect to the realization of this asset. While no final determination will be made until all comments are received, the agency staffs believe this approach would be the most appropriate course of action at this time because of the concerns noted above.[5]

3. Amending the Call Report and TFR instructions to adopt most aspects of FASB 109, but limiting the reporting of net deferred tax assets, net of their valuation allowance, in a manner that is consistent with APB 11. APB 11 generally does not permit the reporting of net deferred tax assets arising from net operating loss carryforwards. However, some accountants believe that APB 11 in some cases permits the reporting of net deferred tax assets arising from temporary differences (referred to as "timing differences" in APB 11) that are realizable only if there is sufficient future taxable income. By limiting the amount of such assets that could be reported under this approach, the Tier 1 capital of an institution would similarly be affected. This approach has the advantage of generally being consistent with the existing policies of the FRB and OTS, which permitted institutions to report net deferred tax assets under APB 11 (or alternatively, under FASB 96). On the other hand, this approach would maintain a reporting standard for net deferred tax assets that has been superseded by FASB 109 and

[3] OTS' letter indicated that savings associations could adopt the provisions of FASB 109, except that any net deferred tax asset could not exceed what was allowed to be reported under APB 11 or FASB 96.

[4] An institution that is a member of a consolidated group for tax purposes (e.g., certain depository institution subsidiaries of holding companies) would be instructed generally to calculate its carryback potential based upon the assumption that it is filing a separate return. However, if the carryback potential of the consolidated group is less than that of the institution (e.g., where other subsidiaries of the holding company have experienced prior net operating losses), then the institution would be instructed to further limit its net deferred tax asset to an amount that it could reasonably expect to have refunded by its parent.

[5] Although this proposed reporting instruction is, for the most part, consistent with GAAP prior to the adoption of FASB 109, some differences exist. For example, APB 11 did not require the automatic write-off of net deferred tax assets arising from deductible temporary differences (referred to as "timing differences" in APB 11) that are dependent on future taxable income. Since state member banks and savings associations previously followed GAAP for reporting net deferred tax assets, these institutions may have reported some net deferred tax asset amounts in excess of what they would be allowed under this approach. Therefore, state member banks and savings associations would be able to continue to report such excess net deferred tax assets, to the extent they remain unamortized, provided the assets are recorded prior to the adoption of a final rule. This provision would also be followed if another alternative were adopted that required a limitation on deferred tax assets that is stricter than the limitation under APB 11.

would be inconsistent with the current policies of the OCC and FDIC.

4. The above approaches could provide for a more stringent reporting limitation on net deferred tax assets than is required by FASB 109. Rather than adopting a more stringent limitation for reporting purposes, an alternative would be to adopt one of the above limitations only as an adjustment to regulatory capital calculations. Net deferred tax assets in excess of the prescribed limitation would be deducted in determining Tier 1 capital for risk-based, leverage, and tangible capital ratio purposes, and a depository institution would have the same regulatory capital ratios as if the same limitation had been adopted for regulatory reporting purposes. This approach has the advantage of maintaining consistency between regulatory reporting instructions and GAAP. However, unlike a reporting limitation, it would allow institutions to report earnings based on net deferred tax assets that may not be realized. Furthermore, since certain dividend restrictions (i.e., 12 U.S.C. 60 and similar state statutes) for banking institutions are based on reported earnings, it could allow such institutions to pay dividends based on the increased earnings arising from reporting such assets.

IV. Issues for Comment

The agencies seek comment on which, if any, of the above possible approaches for addressing net deferred tax assets is appropriate in light of the agencies' supervisory concerns about net deferred tax assets that are dependent upon future taxable income and the objectives that regulatory accounting principles must satisfy as set forth in FDICIA. Comment is also sought on whether any other approaches might be appropriate. In addition, specific comment is solicited on the following issues:

1. Whether there are certain deferred tax assets, associated with specific events or other factors, that possess characteristics that reduce or eliminate the agencies' concerns relative to the realization of net deferred tax assets.

2. What criteria could be used to distinguish institutions that are likely to be able to realize net deferred tax assets that are dependent upon future taxable income from those institutions that are not likely to realize these assets.

3. If an approach were adopted by the agencies that is more conservative with respect to net deferred tax assets than APB 11, whether the grandfathering provision for state member banks and savings associations that is discussed in footnote 5 should be adopted.

Dated: July 29, 1992.

Joe M. Cleaver,

Executive Secretary, Federal Financial Institutional Examination Council.

[FR Doc. 92-18245 Filed 7-31-92; 8:45 am]

BILLING CODE 6210-01-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 meeting of the Federal Accounting Standards Advisory Board will be held on Wednesday, August 19, 1992 from 9 a.m. to 4 p.m. in room 7313 of the General Accounting Office, 441 G St., NW., Washington, DC.

The primary topic of discussion will be the proposed Exposure Draft on "Accounting for Tangible Property Other than Long Term Fixed Assets Held by Agencies of the Federal Government." The status of other projects will be discussed. 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: July 28, 1992.

Jimmie D. Brown,

Deputy Executive Director.

[FR Doc. 92-18302 Filed 7-31-92; 8:45 am]

BILLING CODE 1610-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Alcohol, Drug Abuse, and Mental Health Administration

Current List of Laboratories Which Meet Minimum Standards To Engage in Urine Drug Testing for Federal Agencies and Laboratories That Have Withdrawn From the Program

AGENCY: National Institute on Drug Abuse, ADAMHA, HHS.

ACTION: Notice

SUMMARY: The Department of Health and Human Services notifies Federal agencies of the laboratories currently certified to meet standards of subpart C of Mandatory Guidelines for Federal Workplace Drug Testing Programs (53 FR 11979, 11986). A similar notice listing all currently certified laboratories will be published during the first week of each month, and updated to include laboratories which subsequently apply for and complete the certification process. If any listed laboratory's certification is totally suspended or revoked, the laboratory will be omitted from updated lists until such time as it is restored to full certification under the Guidelines.

If any laboratory has withdrawn from the National Laboratory Certification Program during the past month, it will be identified as such at the end of the current list of certified laboratories, and will be omitted from the monthly listing thereafter.

FOR FURTHER INFORMATION CONTACT: Denise L. Goss, Program Assistant, Drug Testing Section, Division of Applied Research, National Institute on Drug Abuse, Room 9-A-53, 5600 Fishers Lane, Rockville, Maryland 20857; tel.: (301) 443-6014.

SUPPLEMENTARY INFORMATION: Mandatory Guidelines for Federal Workplace Drug Testing were developed in accordance with Executive Order 12564 and section 503 of Public Law 100-71. Subpart C of the Guidelines, "Certification of Laboratories Engaged in Urine Drug Testing for Federal Agencies," sets strict standards which laboratories must meet in order to conduct urine drug testing for Federal agencies. To become certified an applicant laboratory must undergo three rounds of performance testing plus an on-site inspection. To maintain that

certification a laboratory must participate in an every-other-month performance testing program plus periodic, on-site inspections.

Laboratories which claim to be in the applicant stage of NIDA certification are not to be considered as meeting the minimum requirements expressed in the NIDA Guidelines. A laboratory must have its letter of certification from HHS/NIDA which attests that it has met minimum standards.

In accordance with subpart C of the Guidelines, the following laboratories meet the minimum standards set forth in the Guidelines:

AccuTox Analytical Laboratories, 427 Fifth Avenue, NW., P.O. Box 770, Attalla, AL 35954–0770, 205–538–0012/800–247–3893

Aegis Analytical Laboratories, Inc., 624 Grassmere Park Road, suite 21, Nashville, TN 37211, 615–331–5300

Alabama Reference Laboratories, Inc., 543 South Hull Street, Montgomery, AL 36103, 800–541–4931/205–263–5745

Allied Clinical Laboratories, 201 Plaza Boulevard, Hurst, TX 76053, 817–282–2257

American Medical Laboratories, Inc., 11091 Main Street, P.O. Box 188, Fairfax, VA 22030, 703–691–9100

Associated Pathologists Laboratories, Inc., 4230 South Burnham Avenue, Suite 250, Las Vegas, NV 89119–5412, 702–733–7866

Associated Regional and University Pathologists, Inc. (ARUP), 500 Chipeta Way, Salt Lake City, UT 84108, 801–583–2787

Baptist Medical Center—Toxicology Laboratory, 9601 I–630, Exit 7, Little Rock, AR 72205–7299, 501–227–2783, (formerly: Forensic Toxicology Laboraotry Baptist Medical Center)

Bayshore Clinical Laboratory, 4555 W. Schroeder Drive, Brown Deer, WI 53223, 414–355–4444/800–877–7016

Bellin Hospital—Toxicology Laboratory, 215 N. Webster Ave., Green Bay, WI 54301, 414–433–7485

Bioran Medical Laboratory, 415 Massachusetts Avenue, Cambridge, MA 02139, 617–547–8900

California Toxicology Services, 1925 East Dakota Avenue, Suite 206, Fresno, CA 93726, 209–221–5655/800–448–7600

Cedars Medical Center, Department of Pathology, 1400 Northwest 12th Avenue, Miami, FL 33136, 305–325–5810

Center for Human Toxicology, 417 Wakara Way, Room 290, University Research Park, Salt Lake City, UT 84108, 801–581–5117

Clinical Pathology Facility, Inc., 711 Bingham Street, Pittsburgh, PA 15203, 412–488–7500

Clinical Reference Lab, 11850 West 85th Street, Lenexa, KS 66214, 800–445–6917

CompuChem Laboratories, Inc., A Subsidiary of Roche Biomedical Laboratories, 3308 Chapel Hill/Nelson Hwy., Research Triangle Park, NC 27709, 919–549–8263/800–833–3984

CompuChem Laboratories, Special Division, 3308 Chapel Hill/Nelson Hwy., Research Triangle Park, NC 27709, 919–549–8263

Cox Medical Centers, Department of Toxicology, 1423 North Jefferson Avenue, Springfield, MO 65802, 800–876–3652/417–836–3093

Damon Clinical Laboratories, 140 East Ryan Road, Oak Creek, WI 53154, 800–638–1100, (name changed: formerly Chem-Bio Corporation; CBC Clinilab)

Damon Clinical Laboratories, 8300 Esters Blvd., Suite 900, Irving, TX 75063, 214–929–0535

Doctors & Physicians Laboratory, 801 East Dixie Avenue, Leesburg, FL 32748, 904–787–9006

Drug Labs of Texas, 15201 I–10 East, Suite 125, Channelview, TX 77530, 713–457–3784

DrugScan, Inc., P.O. Box 2969, 1119 Mearns Road, Warminster, PA 18974, 215–674–9310

Eagle Forensic Laboratory, Inc., 950 North Federal Highway, Suite 308, Pompano Beach, FL 33062, 305–946–4324

Eastern Laboratories, Ltd., 95 Seaview Boulevard, Port Washington, NY 11050, 516–625–9800

ElSohly Laboratories, Inc., 1215–1/2 Jackson Ave., Oxford, MS 38655, 601–236–2609

Employee Health Assurance Group, 405 Alderson Street, Schofield, WI 54476, 800–627–8200, (name change: formerly Alpha Medical Laboratory, Inc.)

General Medical Laboratories, 36 South Brooks Street, Madison, WI 53715, 608–267–6267

Harris Medical Laboratory, 7606 Pebble Drive, Fort Worth, TX 76118, 817–595–0294

Harrison & Associates Forensic Laboratories, 606 N. Weatherford, P.O. Box 2788, Midland, TX 79702, 800–725–3784/915–687–6877

HealthCare/Preferred Laboratories, 24451 Telegraph Road, Southfield, MI 48034, 800–328–4142 (inside MI)/800–225–9414 (outside MI)

Hermann Hospital Toxicology Laboratory, Hermann Professional Building, 6410 Fannin, Suite 354, Houston, TX 77030, 713–793–6080

IHC Laboratory Services Forensic Toxicology, 930 North 500 West, Suite E, Provo, UT 84604, 800–967–9766

Laboratory of Pathology of Seattle, Inc., 1229 Madison St., Suite 500, Nordstrom Medical Tower, Seattle, WA 98104, 206–386–2672

Laboratory Specialists, Inc., 113 Jarrell Drive, Belle Chasse, LA 70037, 504–392–7961

Marshfield Laboratories, 1000 North Oak Avenue, Marshfield, WI 54449, 715–389–3734

Mayo Medical Laboratories, 200 S.W. First Street, Rochester, MN 55905, 507–284–3631

Med-Chek Laboratories, Inc., 4900 Perry Highway, Pittsburgh, PA 15229, 412–931–7200

MedExpress/National Laboratory Center, 4022 Willow Lake Boulevard, Memphis, TN 38175, 901–795–1515

MedTox Bio-Analytical, a Division of MedTox Laboratories, Inc., 9176 Independence Avenue, Chatsworth, CA 91311, 818–718–0115/800–331–8670 (outside CA)/800–464–7081 (inside CA), (name changed: formerly Laboratory Specialists, Inc., Abused Drug Laboratories)

MedTox Bio-Analytical, a Division of MedTox Laboratories, Inc., 2356 North Lincoln Avenue, Chicago, IL 60614, 312–880–6900, (name changed: formerly Bio-Analytical Technologies)

MedTox Laboratories, Inc., 402 W. County Road D, St. Paul, MN 55112, 800–832–3244/612–636–7466

Methodist Hospital of Indiana, Inc., Department of Pathology and Laboratory Medicine, 1701 N. Senate Boulevard, Indianapolis, IN 46202, 317–929–3587

Methodist Medical Center Toxicology Laboratory, 221 N.E. Glen Oak Avenue, Peoria, IL 61636, 800–752–1835/309–671–5199

MetPath, Inc., 1355 Mittel Boulevard, Wood Dale, IL 60191, 708–595–3888

MetPath, Inc., One Malcolm Avenue, Teterboro, NJ 07608, 201–393–5000

MetWest-BPL Toxicology Laboratory, 18700 Oxnard Street, Tarzana, CA 91356, 800–492–0800/818–343–8191

National Center for Forensic Science, 1901 Sulphur Spring Road, Baltimore, MD 21227, 410–536–1485 (name changed: formerly Maryland Medical Laboratory, Inc.)

National Drug Assessment Corporation, 5419 South Western, Oklahoma City, OK 73109, 800–749–3784 (name changed: formerly Med Arts Lab)

National Health Laboratories Incorporated, 2540 Empire Drive, Winston-Salem, NC 27103–6710, 919–760–4620/800–334–8627 (outside NC)/800–642–0894 (inside NC)

National Health Laboratories Incorporated, 75 Rod Smith Place, Cranford, NJ 07016–2843, 908–272–2511

National Health Laboratories Incorporated, d.b.a. National Reference Laboratory, Substance Abuse Division, 1400 Donelson Pike, Suite A–15, Nashville, TN 37217, 615–360–3992/800–800–4522

National Health Laboratories Incorporated, 13900 Park Center Road, Herndon, VA 22071, 703–742–3100/800–572–3734 (inside VA)/800–336–0391 (outside VA)

National Psychopharmacology Laboratory, Inc., 9320 Park W. Boulevard, Knoxville, TN 37923, 800–251–9492

National Toxicology Laboratories, Inc., 1100 California Avenue, Bakersfield, CA 93304, 805–322–4250

Nichols Institute Substance Abuse Testing (NISAT), 8985 Balboa Avenue, San Diego, CA 92123, 800–446–4728/619–694–5050 (name changed: formerly Nichols Institute)

Northwest Toxicology, Inc., 1141 E. 3900 South, Salt Lake City, UT 84124, 800–322–3361

Occupational Toxicology Laboratories, Inc., 2002 20th Street, Suite 204A, Kenner, LA 70062, 504–465–0751

Oregon Medical Laboratories, P.O. Box 972, 722 East 11th Avenue, Eugene, OR 97440–0972, 503–687–2134

Parke DeWatt Laboratories, Division of Comprehensive Medical Systems, Inc., 1810 Frontage Rd., Northbrook, IL 60062, 708–480–4680

Pathology Associates Medical Laboratories, East 11604 Indiana, Spokane, WA 99206, 509–926–2400

PDLA, Inc. (Precision), 5 Industrial Park Drive, Oxford, MS 38655, 601–236–5800/800–237–7352

PDLA, Inc. (Princeton), 100 Corporate Court, So. Plainfield, NJ 07080, 908–769–8500/800–237–7352

PharmChem Laboratories, Inc., 1505–A O'Brien Drive, Menlo Park, CA 94025, 415–328–6200/800–446–5177

Poisonlab, Inc., 7272 Clairemont Mesa Road, San Diego, CA 92111, 619–279–2600

Precision Analytical Laboratories, Inc., 13300 Blanco Road, Suite #150, San Antonio, TX 78216, 512–493–3211

Puckett Laboratory, 4200 Mamie Street, Hattiesburgh, MS 39402, 601–264–3856/800–844–8378
Regional Toxicology Services, 15305 N.E. 40th Street, Redmond, WA 98052, 206–882–3400
Resource One, Inc., Seven Pointe Circle, Greenville, SC 29615, 803–233–5639
Roche Biomedical Laboratories, 1801 First Avenue South, Birmingham, AL 35233, 205–581–4170
Roche Biomedical Laboratories, 1957 Lakeside Parkway, Suite 542, Tucker, GA 30084, 404–939–4811
Roche Biomedical Laboratories, Inc., 1120 Stateline Road, Southaven, MS 38671, 601–342–1286
Roche Biomedical Laboratories, Inc., 69 First Avenue, Raritan, NJ 08869, 800–437–4986
Scott & White Drug Testing Laboratory, 600 S. 25th Street, Temple, TX 76504, 800–749–3788
S.E.D. Medical Laboratories, 500 Walter NE, suite 500, Albuquerque, NM 87102, 505–848–8800
Sierra Nevada Laboratories, Inc., 888 Willow Street, Reno, NV 89502, 800–648–5472
SmithKline Beecham Clinical Laboratories, 7600 Tyrone Avenue, Van Nuys, CA 91045, 818–376–2520
SmithKline Beecham Clinical Laboratories, 3175 Presidential Drive, Atlanta, GA 30340, 404–934–9205, (name changed: formerly SmithKline Bio-Science Laboratories)
SmithKline Beecham Clinical Laboratories, 506 E. State Parkway, Schaumburg, IL 60173, 708–885–2010, (name changed: formerly International Toxicology Laboratories)
SmithKline Beecham Clinical Laboratories, 11636 Administration Drive, St. Louis, MO 63146, 314–567–3905
SmithKline Beecham Clinical Laboratories, 400 Egypt Road, Norristown, PA 19403, 800–523–5447, (name changed: formerly SmithKline Bio-Science Laboratories)
SmithKline Beecham Clinical Laboratories, 8000 Sovereign Row, Dallas, TX 75247, 214–638–1301, (name changed: formerly SmithKline Bio-Science Laboratories)
South Bend Medical Foundation, Inc., 530 N. Lafayette Boulevard, South Bend, IN 46601, 219–234–4176
Southgate Medical Services, Inc., 21100 Southgate Park Boulevard, Cleveland, OH 44137–3054, 800–338–0166 (outside OH)/ 800–362–8913 (inside OH), (name changed: formerly Southgate Medical Laboratory)
St. Anthony Hospital (Toxicology Laboratory), P.O. Box 205, 1000 N. Lee Street, Oklahoma City, OK 73102, 405–272–7052
St. Louis University Forensic Toxicology Laboratory, 1205 Carr Lane, St. Louis, MO 63104, 314–577–8628
Toxicology & Drug Monitoring Laboratory, University of Missouri Hospital & Clinics, 301 Business Loop 70 West, suite 208, Columbia, MO 65203, 314–882–1273
Toxicology Testing Service, Inc., 5426 N.W. 79th Avenue, Miami, FL 33166, 305–593–2260

The following laboratory voluntarily withdrew from the National Laboratory Certification Program:

Roche Biomedical Laboratory, 1912 Alexander Drive, P.O. Box 13973, Research Triangle Park, North Carolina 27709, has voluntarily withdrawn its name from the list of certified laboratories. Because of the recent acquisition of CompuChem Laboratories, all Forensic Drug Testing work performed at Roche Biomedical Laboratory, Research Triangle Park, is now performed at CompuChem Laboratories.

Richard A. Millstein,

Acting Director, National Institute on Drug Abuse.

[FR Doc. 92–18416 Filed 7–31–92; 8:45 am]

BILLING CODE 4160–20–M

Centers for Disease Control

[Program Announcement 913]

Grants for Injury Control Research Centers and Injury Control Research Program Project Grants; Notice of Availability of Funds for Fiscal Year 1993; Amendment

A notice announcing the availability of Fiscal Year 1993 funds for grants to support Injury Control Research Centers and Injury Control Research Program Project Grants was published in the **Federal Register** on April 7, 1992, (57 FR 11722). The notice is amended as follows:

On page 11723, third column, in the information under the heading, "Evaluation Criteria," delete the first and second sentences in the paragraph and insert the following: "Upon receipt, applications will be reviewed by CDC staff for completeness and responsiveness as outlined under the heading, "Program Requirements," on page 11723, parts A and B, first, second and third columns. Incomplete applications and applications that are not responsive will be returned to the applicant without further consideration.

Applications which are complete and responsive may be subjected to a preliminary evaluation by reviewers from the Injury Research Grants Review Committee (IRGRC) to determine if the application is of sufficient technical and scientific merit to warrant further review; the CDC will withdraw from further consideration applications judged to be noncompetitive and promptly notify the principal investigator/program director and the official signing for the applicant organization. Those applications judged to be competitive will be further evaluated by a dual review process."

In the third sentence of the "Evaluation Criteria," page 11723, third column, delete the word "second" insert the word "primary."

All other information and requirements in the notice remain the same.

Dated: July 27, 1992.

Ladene H. Newton,

Acting Associate Director for Management and Operations, Centers for Disease Control.

[FR Doc. 92–18266 Filed 7–31–92; 8:45 am]

BILLING CODE 4160–18–M

[Program Announcement 912]

Grants for Injury Prevention and Control Research; Availability of Funds for Fiscal Year 1993; Amendment

A notice announcing the availability of Fiscal Year 1993 funds for grants to support Injury Prevention and Control Research was published in the **Federal Register** on April 29, 1992, (57 FR 18154). The notice is amended as follows:

On page 18155, third column, in the information under the heading, "Evaluation Criteria," delete the first paragraph and insert the following: "Upon receipt, applications will be reviewed by CDC staff for completeness and responsiveness as outlined under the heading, "Program Requirements,' on page 18154, third column. Incomplete applications and applications that are not responsive will be returned to the applicant without further consideration.

Applications which are complete and responsive may be subjected to a preliminary evaluation by a peer review group to determine if the application is of sufficient technical and scientific merit to warrant further review; the CDC will withdraw from further consideration applications judged to be noncompetitive and promptly notify the principal investigator/program director and the official signing for the applicant organization. Those applications judged to be competitive will be further evaluated by a dual review process."

Amend the first sentence of the second paragraph on page 18155 under the heading "Evaluation Criteria," by inserting the word "competitive" after the word "all" so that the sentence reads, "Review by the Injury Research Grants Review Committee (IRGRC) Peer review will be conducted on all competitive applications."

All other information and requirements in the notice remain the same.

Dated: July 27, 1992.

Ladene H. Newton,

Acting Associate Director for Management and Operations, Centers for Disease Control.

[FR Doc. 92–18265 Filed 7–31–92; 8:45 am]

BILLING CODE 4160–18–M

Health Resources and Services Administration

Advisory Council Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following National Advisory body scheduled to meet during the month of September 1992:

Name: National Advisory Committee on Rural Health.

Date and Time: September 21–23, 1992; 8:30 a.m.

Place: The Sheraton Premiere, 8661 Leesburg Pike, Vienna, Virginia 22182, (703) 448–1234, FAX: (703) 893–8193.

The meeting is open to the public.

Purpose: The Committee provides advice and recommendations to the Secretary with respect to the delivery, financing, research, development and administration of health care services in rural areas.

Agenda: During this meeting, the Committee intends to continue formulating health care reform recommendations and begin discussing other issues, such as maternal and child health, rural development, and school-based clinics. The Committee will continue shaping its agenda and refining recommendations to be included in the Fifth Report to the Secretary, Department of Health and Human Services.

Anyone requiring information regarding the subject Council should contact Mr. Jeffrey Human, Executive Secretary, National Advisory Committee on Rural Health, Health Resources and Services Administration, room 9–05, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone (301) 443–0835, FAX (301) 443–2803.

Persons interested in attending any portion of the meeting should contact Ms. Arlene Granderson, Director of Operations, Office of Rural Health Policy, Health Resources and Services Administration, Telephone (303) 443–0835.

Agenda Items are subject to change as priorities dictate.

Dated: July 28, 1992.

Jackie E. Baum,

Advisory Committee Management Officer, HRSA.

[FR Doc. 92–18193 Filed 7–31–92; 8:45 am]

BILLING CODE 4160–15–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AZ–930–4214–10; AZA 26586]

Proposed Withdrawal and Opportunity for a Public Meeting; Arizona

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The U.S. Department of Agriculture, Forest Service (FS) has filed application AZA–26586, to withdraw 34.18 acres of the Bureau of Land Management (BLM) administered land from all forms of entry or disposal, including the mining but not the mineral leasing laws for the purpose of protecting the area and investment in the Clifton Ranger District Administrative Site. The withdrawal would be made subject to valid existing rights. Proposed improvements at the site would include administrative offices, maintenance shop, barn and corrals for the Clifton Ranger District, Apache National Forest. Temporary improvements with an approximate value of $316,000 presently occupy the site. Use is presently authorized under the right of way regulations. The FS desires this specific area due to its location the BLM, Safford District has concurred in the FS's use of the site.

This application is in compliance with the regulations found in 43 CFR 2310.1–2 and the Apache-Sitgreaves National Forest Plan.

Publication of this notice closes the land for up to 2 years from all other uses including location and entry under the United States mining and mineral leasing laws.

DATES: Comments and requests for a meeting should be receive on or before November 2, 1992.

ADDRESSES: Comments and meeting requests should be sent to the Arizona State Director, Bureau of Land Management (BLM), 3707 North 7th Street, Phoenix, Arizona 85014, or P.O. Box 16563, Phoenix, Arizona 85011–6563.

FOR FURTHER INFORMATION CONTACT: John Mezes, BLM Arizona State Office, 0-02–640–5509.

SUPPLEMENTARY INFORMATION: The U.S. Department of Agriculture, Forest Service, filed application AZA–26586 to withdraw the following described BLM administered land from all forms of entry, location and disposal under the public lands laws including the United States mining laws but not the mineral leasing laws. The withdrawal would be issued subject to valid existing rights.

Gila and Salt River Meridian; Sitgreaves National Forest

T. 6 S., R. 30 E.,
Sec. 1. Lot 14.

The area described contains approximately 34.18 acres in Greenlee County.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the undersigned officer of the Bureau of Land Management.

Notice is hereby given that an opportunity for a public meeting is afforded in connection with the proposed withdrawal. All interested persons who desire a public meeting for the purpose of being heard on the proposed withdrawal must submit a written request to the undersigned officer within 90 days from the date of publication of this notice.

Upon determination by the authorized officer that a public meeting will be held, a notice of time and place will be published in the **Federal Register** at least 30 days before the scheduled date of the meeting.

The application will be processed in accordance with regulations as set forth in 43 CFR 2300.

For a period of 2 years from the date of publication of this notice in the **Federal Register**, the land will be segregated as specified above unless the application is denied or canceled or the withdrawal is approved prior to that date.

The temporary segregation on the land in conjunction with this application shall not affect the administrative jurisdiction over it.

John H. Stephenson,

Acting Deputy State Director, Lands and Renewable Resources.

[FR Doc. 92–18207 Filed 7–31–92; 8:45 am]

BILLING CODE 4310–32–M

[NV–930–91–4320–13]

Las Vegas District Grazing Advisory Board Meeting; NV

Notice is hereby given in accordance with Public Law 92–463 that a meeting of the Las Vegas District Grazing Advisory Board will be held Wednesday, August 26, 1992. The meeting will begin at 9 a.m. in the conference room of the Las Vegas District Office, 4765 W. Vegas Drive, and continue until 3 p.m.

The agenda is as follows:

1. Welcome and introductions.
2. Election of Chairperson and Vice Chairperson.
3. Range improvement program, status update, and proposals.
4. Ephemeral Reclassification update and direction.
5. Status of the grazing and desert tortoise research study.
6. Stateline RMP briefing.
7. Public comments.
8. Arrangements for next meeting.

The meeting is open to the public. Interested persons may make oral comments to the board during the public comment period on the day of the meeting or they may file written

statements for the board's consideration during the meeting. Notify the District Manager, BLM, 4765 West Vegas Drive, P.O. Box 26569, Las Vegas, Nevada 89126, if you wish to make an oral statement to the Board. Summary minutes of the board meeting will be maintained at the Las Vegas District Office. The minutes will be available for public inspection during regular office hours (7:30 a.m. to 4:15 p.m.) within 30 days after the meeting.

Colin P. Christensen,

Acting District Manager, Las Vegas.

[FR Doc. 92-18254 Filed 7-31-92; 8:45 am]

BILLING CODE 4310-HC-M

Montana; Meeting

AGENCY: Bureau of Land Management, Miles City District Office, Interior (MT-020-02-4322-02).

ACTION: Notice of meeting.

SUMMARY: The Miles City District Grazing Advisory Board will meet Tuesday, September 15, 1992, at 10 a.m. The meeting will be held in the District Office Conference Room on Garryowen Road west of Miles City, Montana.

The agenda will include:

F493 Range Improvement Projects
Update on BLM 2015, including
Proposed District Boundary Changes
FY93 Budget, including Range, Wildlife & Weed Control.

The meeting is open to the public. Summary minutes of the meeting will be available for public inspection and reproduction during regular business hours within 30 days following the meeting.

FOR FURTHER INFORMATION CONTACT: Chuck Frost, District Manager, Miles City District, Bureau of Land Management, P.O. Box 940, Miles City, Montana 59301 or phone (406) 232-4331.

Arnold E. Dougan,

Acting Associate District Manager.

[FR Doc. 92-18273 Filed 7-31-92; 8:45 am]

BILLING CODE 4310-DN-M

[AZ-050-02-4212-14; AZA 25294]

Arizona: La Paz County Realty Action for the Noncompetitive Sale of Public Lands

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of realty action.

SUMMARY: The Bureau of Land Management has determined that the following described lands are suitable for direct sale under sections 203 and 209 of the Federal Land Policy and Management Act of 1976 (Pub. L. 94-579, 90 Statute 2750; title 43, United States Code, section 1713), at not less than the estimated fair market value:

Gila and Salt River Meridian, Arizona

T. 4 N., R. 19 W.,
Sec. 4, Lots 1, 2, 3, 4, S½N½, SW¼, N½ SE¼.

Containing 496.56 acres.

DATES: Comments regarding the proposed sale of the lands must be submitted by September 17, 1992 to Area Manager Michael A. Taylor, Bureau of Land Management, Yuma Resource Area, 3150 Winsor Avenue, Yuma, Arizona 85365. Any adverse comments will be reviewed by the State Director, who may sustain, vacate, or modify this realty action. In the absence of objections, this proposed realty action will become final.

The lands will not be offered for sale until October 2, 1992.

On August 3, 1992, the public lands described above shall be segregated from all forms of appropriation under the public land laws, including the mining laws. The segregative effect will end upon issuance of the patent or April 30, 1992, whichever occurs first.

FOR FURTHER INFORMATION CONTACT: Area Manager Michael A. Taylor, Bureau of Land Management, Yuma Resource Area, 3150 Winsor Avenue, Yuma, Arizona 85365, telephone (602) 726-6300. Detailed information concerning this action is also available for review.

SUPPLEMENTARY INFORMATION: The Bureau of Land Management proposes to sell the surface and subsurface estates of the above-described lands to the town of Quartzsite. The land would be used for expansion of the 1,200-bed, medium security Federal prison site. The land would also provide a buffer zone between the town and the soon-to-be-built facility.

Conveyance of the available mineral interests will occur simultaneously with the sale of the land. The mineral interests being offered for conveyance have no known mineral value. Acceptance of a direct sale offer will constitute an application for conveyance of those mineral interests. The applicant will be required to pay a $50 nonrefundable filing fee for conveyance of the available mineral interests.

The patent, when issued, will contain the following terms, conditions, and reservations:

1. Reservation to the United States of a right-of-way for ditches and canals pursuant to the Act of August 30, 1890, title 43, United States Code, section 945.

2. Subject to AZPHX 083964, Arizona State Highway Department, Arizona, Highway 95 right-of-way.

3. Cattle-proof the entire north, west, and south perimeters of the 496.56-acre area with barbed-wire fence to prevent livestock from roaming onto Arizona Highway 95. The fence should connect with the existing Arizona Highway 95 fence.

This Notice of Realty Action is issued under authority of title 43, Code of Federal Regulations, subpart 2711, § 1-2(c)

Dated: July 24, 1992.

Bill Watters,

Acting District Manager.

[FR Doc. 92-18205 Filed 7-31-92; 8:45 am]

BILLING CODE 4310-32-M

[NV-930-02-4212-14; N-51554]

Realty Action; NV

AGENCY: Bureau of Land Management.

ACTION: Notice of realty action.

SUMMARY: The following land has been examined and identified as suitable for disposal by direct sale under section 203 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2750; 43 U.S.C. 1713) at no less than fair market value:

Mount Diablo Meridian

T. 47 N., R. 64 E.,
Sec. 1, Lot 19, 22.

The above-described land comprising 1.55 acres, more or less, is being offered as a direct sale to the Povah Family Trust, et al., adjoining land owners. A direct sale is being conducted to eliminate lands from public ownership that have a high potential for unauthorized use and are difficult and uneconomical to manage as public lands. The sale would assure land use compatibility with adjoining lands. The land ownership pattern coupled with the location of the adjacent highway right-of-way precludes any development other than in conjunction with the private lands located to the east of these parcels.

The sale is consistent with the Bureau's planning system. The land is not needed for any resource program and is not suitable for management by the Bureau or another Federal department or agency. The proposal has been reviewed and approved by the Elko County Planning Commission.

The locatable and salable mineral estates have been determined to have no known value. The land is prospectively valuable for oil and gas and geothermal minerals. Therefore, the mineral interest, excluding oil and gas and geothermal minerals, would be conveyed simultaneously with the sale of the parcel. Acceptance of the direct sale offer will constitute an application to purchase the mineral estate having no known value. A nonrefundable fee of $50.00 will be required with the purchase money. Failure to submit the purchase money and the nonrefundable filing fee for the mineral estate within the timeframe specified by the authorized officer will result in cancellation of the sale.

The patent, when issued, will contain the following reservations to the United States:

1. Oil and gas and geothermal minerals.
2. A right-of-way for ditches or canals constructed by the authority of the United States. Act of August 30, 1890 (U.S.C. 945).

And will be subject to: Those rights for highway purposes granted to the Nevada State Highway Department, its successors or assigns by Permit Nos. CC–023091, Nev–08440, and Nev–042807 under the Act of November 9, 1921 (42 Stat. 212–216, 23 U.S.C. Sec. 18).

Upon publication of this notice of realty action in the **Federal Register**, the lands will be segregate from all forms of appropriation under the public land laws, including the mining laws but not the mineral leasing laws. The segregation shall terminate upon issuance of patent or other document of conveyance, upon publication in the **Federal Register** of a termination of segregation or 270 days from publication, whichever occurs first.

The land will not be offered for sale any sooner than 60 days after the publication of this notice in the **Federal Register**. For a period of 45 days from the date of publication of this Notice in the **Federal Register**, interested parties may submit comments to the District Manager Elko District, at the Elko District Office, Bureau of Land Management, P.O. Box 831, 3900 East Idaho Street, Elko, Navada 89801. Any adverse comments will be evaluated by the Nevada State Director, who may sustain, vacate or modify this realty action. In the absence of timely objections, this proposal shall become the final determination of the Department of the Interior.

Dated: July 21, 1992.

Rodney Harris,

District Manager.

[FR Doc. 92–18206 Filed 7–31–92; 8:45 am]

BILLING CODE 4310–32–M

[OR–092–4212–13: GP2–344; OR 45978]

Realty Action; Exchange of Public Lands; Lane County, Oregon

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of realty action—exchange of public lands in Lane County, Oregon.

SUMMARY: The following described public lands are being considered for transfer out of Federal ownership by exchange under section 206 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716):

Willamette Meridian, Oregon

T. 18 S., R. 9 W.,
Sec. 7: SE¼SW¼;
Sec. 14: NW¼NE¼, NE¼NW¼;
Sec. 23: NE¼NW¼.
T. 18 S., R. 11 W.,
Sec. 7: NE¼NW¼;
Sec. 18: SE¼SE¼.
Containing 240.00 acres, more or less.

In exchange for these lands, the United States will acquire the following described lands from the John Hancock Mutual Life Insurance Company:

Willamette Meridian, Oregon

T. 16 S., R. 7 W., W.M.,
Sec. 6: Lots 1–5, NE¼SE¼, portions of Lot 6, SE¼SW¼, W½SE¼, SE¼SE¼ (Tax lots 16–07–06–00–100, 16–07–06–00–200, and 16–07–06–00–400);
Sec. 7: W½NW¼NE¼, portions of Lot 2, E½NE¼, SW¼NE¼, SE¼NW¼, NE¼SE¼ (Tax lots 16–07–07–00–300, 16–07–07–00–400, 16–07–07–00–600, and 16–07–07–00–800);
Sec. 8: NE¼NW¼, portions of N½NW¼, SE¼NW¼, E½SW¼ (Tax lots 16–07–08–00–300 and 16–07–08–00–800).
T. 17 S., R. 3 E., W.M.,
Sec. 4: Lot 8;
Sec. 9: Lot 6;
Sec. 10: SW¼NW¼ N½SW¼, SE¼SW¼, SE¼SE¼.
T. 17 S., R. 9 W., W.M.,
Sec. 2: Lot 3, S½NE¼, SE¼NW¼, E½SW¼.
T. 18 S., R. 1 E., W.M.,
Sec. 26: N½N½.
T. 18 S., R. 8 W., W.M.,
Sec. 28: W½W½;
Sec. 32: That portion of NE¼NE¼, S½NE¼, N½SW¼, SW¼SW¼ and N½SE¼ lying north of the south right-of-way line of BLM Road No. 18–8–21.
Containing 1692.59 acres, more or less, in Lane County.

The purpose of the exchange is to improve the resource management program of the Bureau of Land Management and the property management program of the John Hancock Mutual Life Insurance Company. The public lands to be exchanged are relatively isolated parcels, noncontiguous to other BLM lands and in some cases lacking legal access. The private lands being offered have important timber, fisheries, wildlife habitat and recreation values. These lands will be managed for multiple use along with the adjoining public lands. The public interest will be well served by making this exchange. The final determination on the exchange will await completion of an environmental assessment.

The value of the lands to be exchanged is approximately equal, and the acreage will be adjusted to bring the values as close as possible upon completion of the final appraisal of the lands. Full equalization of values will be achieved by payment to the United States of funds in an amount not to exceed 25 percent of the total value of the public land to be transferred. All mineral rights are expected to be transferred with the surface.

The exchange will be subject to:

1. All valid existing rights, including any right-of-way, easement, permit or lease of record.

2. A reservation to the United States of a right-of-way for ditches and canals constructed by authority of the United States under the Act of August 30, 1890 (43 U.S.C. 945).

Publication of this notice in the **Federal Register** segregates the public lands, described above, from appropriation under the public land laws, including the mining laws, but not from exchange pursuant to Section 206 of the Federal Land Policy and Management Act of 1976. The segregative effect of this notice will terminate upon issuance of patent or in two years from the date of this publication, whichever occurs first.

DATES: Interested parties may submit comments to the Eugene District Manager at the address shown below.

ADDRESSES: Detailed information concerning this exchange is available from the Eugene District Office, P.O. Box 10226 (2890 Chad Drive), Eugene, Oregon 97440.

FOR FURTHER INFORMATION CONTACT: Ronald Wold, Eugene District Office, at (503) 683–6403.

Date of Issue: July 24, 1992.

C. Bradley Krueger,

Acting District Manager.

[FR Doc. 92-18274 Filed 7-31-92; 8:45 am]

BILLING CODE 4310-33-M

[OR-930-01-6350-08; GP2-347]

Draft Resource Management Plan/ Environmental Impact Statement; Availability:

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability of draft resource management plan/ environmental impact statement for the Salem District, Oregon, on or about August 21, 1992.

SUMMARY: Pursuant to section 102(2)(c) of the National Environmental Policy Act of 1970, section 202(f) of the Federal Land Policy and Management Act of 1976, and 43 CFR part 1610, a draft resource management plan/ environmental impact statement (RMP/ EIS) for the Salem District, Oregon, has been prepared and is available for review and comment. The draft RMP/ EIS describes and analyzes future options for managing approximately 393,600 acres of mostly forested public land and 27,800 acres of nonfederal surface ownership with federal mineral estate administered by the Bureau of Land Management in 12 counties in northwest Oregon.

Decisions generated during this planning process will supersede land use planning guidance presented in the Westside Salem and Eastside Salem management framework plans (MFPs).

Copies of the draft RMP/EIS and a summary of it may be obtained from the Salem District Office. Public reading copies will be available for review at local public libraries, all government document depository libraries, and at the following BLM locations:

Office of Enternal Affairs, Main Interior Building, Room 5647, 1849 C Street, NW, Washington, DC 20240

Public Room, Oregon State Office, 1300 N.E. 44th Avenue, Portland, Oregon 97208

Salem District Office, 1717 Fabry Road SE., Salem, Oregon 97306

Tillamook Resource Area Office, 4610 Third St., Tillamook, OR 97141.

All other BLM offices in western Oregon

Background information and maps used in developing the draft RMP/EIS are available for review at the Salem District Office.

Open houses with opportunities to discuss the draft EMP/EIS will be held at the Salem District Office and other locations within the district. Times and locations will be announced at a later date through the local media and in a separate mailer.

DATES: Written comments on the draft RMP/EIS must be submitted or postmarked no later than December 21, 1992.

ADDRESSES: Written comments should be addressed to Salem District Manager, Bureau of Land Management, 1717 Fabry Road S.E., Salem, Oregon 97306.

FOR FURTHER INFORMATION CONTACT: Bob Saunders, RMP Team Leader, Salem District Office; Phone (503) 375-5634/ 5646.

SUPPLEMENTARY INFORMATION: The draft RMP/EIS describes and analyzes seven alternatives to resolve the following issues: (1) Timber production practices; (2) old-growth forests and habitat diversity; (3) threatened and endangered and other special status species habitat (including habitat for the northern spotted owl); (4) special areas; (5) visual resources; (6) stream, riparian, and water quality; (7) recreation resources; (8) wild and scenic rivers; (9) land tenure; and (10) rural interface areas.

In the BLM's preferred alternative, water quality would be maintained or improved primarily by a combination of best management practices and exclusion of selected areas from planned timber harvest. Particularly important exclusion areas would be the riparian zones of perennial streams and other streams that carry fish.

Some 134,200 acres would be allocated and managed to maintain and strengthen a system of old-growth emphasis areas, which is expected to increase the amount of old-growth stands in the planning area from 32,500 acres to 54,200 acres over the next 100 years.

Some 100,300 acres would be allocated as general forest management areas (primarily timber production). Some 49,100 acres would be managed under substantial restrictions to protect or enhance other resource values. The annual allowable timber sale quantity would be 21.5 million cubic feet (136.5 million board feet). To contribute to biological diversity, standing trees, snags, and down, dead woody material would be retained.

The remaining 110,000 acres would be managed for a variety of values and uses including recreation sites/areas, special areas, riparian management areas, wilderness and T&E species sites.

In addition to protecting listed or proposed threatened and endangered species as required by the Endangered Species Act, the BLM would manage habitats of federal candidate, state-listed, and bureau sensitive species to maintain their population at a level that would avoid contributing to listing of the species.

Management would provide for a wide variety of recreation opportunities, with particular emphasis on developed recreation sites areas and trails and outstanding natural areas.

Two river segments totaling 27.7 miles would be found suitable for designation by Congress under the Wild and Scenic Rivers Act. Some 39.4 other miles of river determined eligible for designation and studied by the BLM would be found not suitable for designation.

Most BLM-administered lands with potential for occurrence would remain available for mineral leasing and location of mining claims, but 6,200 acres would be closed to leasing for oil and gas resources, and 9,100 acres would be closed to location of claims.

The RMP/EIS proposes continuation of designation of 19 areas of critical environmental concern (ACEC) and designation of seven new ACECs. The preferred alternative would redesignate or designate the following ACECs with the noted restrictions:

Area name	Acres	Vegetable harvest	ORV use	Mineral leasing	Mining location	Rights-of-Way
Existing:						
Carolyn's Crown ACEC/RNA	261	P	P	R	P	P
Elk Creek ACEC	1,577	R	P	R	P	R
Grass Mtn. ACEC/RNA	762	P	P	R	P	P
High Peak/Moon Cr. ACEC/RNA	1,538	P	R	R	P	P
Little Grass Mtn. ACEC/ONA	45	P	P	R	P	P
Little Sink ACEC/RNA	81	P	P	R	P	P
Lost Prairie ACEC	58	P	P	R	P	P
Mary's Peak ACEC/ONA	104	P	R	R	P	P
Middle Santiam Terrace ACEC	108	P	P	R	P	P

Area name	Acres	Vegetable harvest	ORV use	Mineral leasing	Mining location	Rights-of-Way
Nestucca River ACEC	1,062	P	R	R	P	R
Rickreall Ridge ACEC	177	P	P	R	P	P
Saddleback Mtn. ACEC/RNA	151	P	P	R	P	P
Sandy River Gorge ACEC/ONA	400	P	P	R	P	P
Sheridan Peak ACEC	299	R	R	R	R	R
Soosap Meadows ACEC	343	P	P	R	P	P
The Butte ACEC/RNA	40	P	P	R	P	P
Valley of the Giants ACEC/ONA	51	P	P	R	P	P
Williams Lake ACEC	98	P	R	R	P	P
Yaquina Head ACEC/ONA	106	P	R	R	P	P
Potential:						
Shafer/Crabtree Cr. ACEC/RNA/ONA	961	P	R	R	P	P
Forest Peak ACEC/RNA	134	P	P	R	P	P
North Santiam ACEC	31	P	P	R	P	P
Walker Flat ACEC	39	P	R	R	P	P
White Rock Fen ACEC	51	P	P	R	P	P
Wilhoit Springs ACEC	170	P	R	R	P	P
Yampo ACEC	13	P	R	R	P	P

P—Use is prohibited.
R—Use is allowed but with restrictions.

There are three potential ACEC areas identified that meet the bureau ACEC criteria of relevance and importance but are not included in whole or in part in the preferred alternative described above. One existing ACEC would not be redesignated because it does not meet ACEC criteria. The primary values of these areas would be protected by other allocations.

This notice meets the requirements of 43 CFR 1610.7–2 for designation of ACECs and the requirements of the final revised Department of the Interior/ Department of Agriculture Guidelines for Eligibility, Classification, and Management of Rivers FR Vol. 47, No. 173, pg. 39454).

Mark E. Lawrence, Jr.,

Acting Salem District Manager.

[FR Doc. 92–18283 Filed 7–31–92; 8:45 am]

BILLING CODE 4310–33–M

[ID–942–02–4730–12]

Idaho: Filing of Plats of Survey; Idaho

The plats of the following described land were officially filed in the Idaho State Office, Bureau of Land Management, Boise, Idaho, effective 9 a.m., July 24, 1992.

The plat, in 3 sheets, representing the corrective dependent resurvey of portions of the west boundary, subdivisional lines, and subdivision of sections 5 and 6, dependent resurvey of portions of the New South Boundary of the Fort Hall Indian Reservation, east and north boundaries, and subdivisional lines and the subdivision of certain sections, T. 5 S., R. 34 E., Boise Meridian, Idaho, Group No. 778, was accepted July 17, 1992.

The plat representing the dependent resurvey of portions of the north boundary and subdivisional lines, and subdivision of section 6, T. 5 S., R. 35 E., Boise Meridian, Idaho, Group No. 819, was accepted July 17, 1992.

These surveys were executed to meet certain administrative needs of the Bureau of Indian Affairs, Fort Hall Agency.

All inquiries concerning the survey of the above described land just be sent to the Chief, Branch of Cadastral Survey, Idaho State Office, Bureau of Land Management, 3380 Americana Terrace, Boise, Idaho, 83706.

Dated: July 24, 1992.

Duane E. Olsen,

Chief Cadastral Surveyor for Idaho.

[FR Doc. 92–18275 Filed 7–31–92; 8:45 am]

BILLING CODE 4310–GG–M

[ID–943–4214–11; IDI–14896, et al]

Notice of Proposed Continuation of Withdrawals; Idaho

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Bureau of Reclamation, proposes that 9416.28 acres withdrawn for the Gooding, Minidoka, Boise, and Black Canyon Reclamation projects continue for the time periods indicated below. The lands are now being used for Reclamation project purposes. The lands would remain closed to surface entry and mining, but have been and would remain open to mineral leasing.

EFFECTIVE DATE: Comments should be received within 90 days of the date of publication of this notice.

FOR FURTHER INFORMATION CONTACT: William E. Ireland, Idaho State Office, BLM, 3380 Americana Terrace, Boise, Idaho 83706, 208–384–3162.

The Bureau of Reclamation proposes that the existing land withdrawals made by various public land orders and secretarial orders be continued for the time periods indicated below pursuant to section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714. The lands are described as follows:

Boise Meridian

Gooding/Minidoka Projects, I–14896, I–14897, I–15261. (42-year term)

T. 5 S., R. 15 E.,
Sec. 2, S½NW¼ and NW¼SE¼;
Sec. 3, SE¼NE¼, SE¼NW¼ and NW¼SE¼.
T. 6 S., R. 15 E.,
Sec. 9, NE¼SE¼.
T. 4 S., R. 16 E.,
Sec. 26, SE¼NW¼;
Sec. 27, N½S½NW¼.
T. 6 S., R. 18 E.,
Sec. 17, NW¼NE¼;
Sec. 21, W½NE¼.
T. 7 S., R. 19 E.,
Sec. 5, lot 4, SW¼NW¼ and W½SW¼;
Sec. 6, SE¼SE¼;
Sec. 7, E½E½;
Sec. 18, E½NE¼, NE¼SE¼ and SE¼SE¼;
Sec. 19, NE¼NE¼;
Sec. 20, NW¼NW¼, S½NW¼ and E½SW¼;
Sec. 29, N½NW¼ and SW¼NW¼;
Sec. 30, S½NE¼ and SE¼;
Sec. 31, W½E½ and SE¼SE¼;
Sec. 32, S½SW¼.
T. 8 S., R. 19 E.,
Sec. 2, NW¼SW¼ and S½SW¼;
Sec. 3, S½;
Sec. 4, SW¼ and S½SE¼;
Sec. 5, lots 2 and 3, S½NE¼ and NE¼SE¼;
Sec. 9, NW¼NE¼;
Sec. 11, NE¼, N½NW¼ and NE¼SE¼;
Sec. 12, S½N½, N½S½ and N½SE¼S W¼;
Sec. 32, lot 6;

Sec. 33, lots 5 and 6 and Tract H.
T. 8 S., R. 20 E.,
Sec. 7, 3, 4, 5, 6 and 8 E½SW¼;
Sec. 18, lot 1 and 4 to 8, inclusive and E½W½;
Sec. 19, lots 4 to 8, inclusive and E½NW¼;
Sec. 30, kits 1, 4, 5, and 8;
Sec. 31, lot 1, W½NE¼, SE¼NE¼ and E½NW¼;
Sec. 32, SW¼NW¼, N½SW¼, N½SE¼SW¼, NW¼SE¼, N½SW¼SE¼ and SE¼SE¼.
T. 9 S., R. 20 E.,
Sec. 1, NE¼NE¼SE¼;
Sec. 3, N½SW¼SW¼, N½SW¼SW¼SW¼ and SE¼SW¼SW¼;
Sec. 4, lots 5, 6 and 8, N½N½SE¼ and SE¼NE¼SE¼;
Sec. 5, lots 5, 6, 9 and 10 and SE¼NE¼;
Sec. 10, lots 1, S½NE¼, NE¼NW¼, E½NE¼NW¼NW¼, N½SE¼NW¼, NW¼SE¼ and W½SW¼SE¼;
Sec. 11, lots 1 and 2 and NE¼SW¼;
Sec. 13, 1ots 1 to 5, inclusive;
Sec. 14, lots 3, 4, and 5 and NW¼NE¼.

Boise Project, I–4373. (20-year term)

T. 7 N., R. 5 W.,
Sec. 34, NW¼NW¼NW¼NW¼ and NW¼SW¼NW¼NW¼NW¼.

Black Canyon Project, I–15070 (56-year term)

T. 5 N., R. 2 W.,
Sec. 7, lot 4 and SE¼SW¼;
Sec. 17, S½NE¼ and SE¼NW¼;
Sec. 27, N½NE¼SE¼.
T. 5 N., R. 3 W.,
Sec. 2, W½NE¼SW¼ and SW¼SW¼;
Sec. 4, S½SW¼SW¼;
Sec. 8, SE¼SE¼SW¼.
T. 6 N., R. 3 W.,
Sec. 5, N¼SW¼NE¼;
Sec. 22, W½SE¼SW¼;
Sec. 26, E½SW¼;
Sec. 32, E½E½NW¼NE¼.
T. 5 N., R. 4 W.,
Sec. 8, E½W½E½SE¼SW¼SW¼ and E½E½SE¼SW¼SW¼;
Sec. 11, E½SE¼SW¼NW¼ and SW¼SE¼NW¼;
Sec. 24, N½NW¼NE¼.
T. 6 N., R. 4 W.,
Sec. 2 N½ of lot 1;
Sec. 12, E½NE¼;
Sec. 25, SE¼NE¼NW¼.
T. 6 N., R. 5 W.,
Sec. 22, lot 2;
Sec. 35, SE¼SE¼SE¼.

Minidoka Project, I–15258. (50-year term)

T. 9 S., R. 26 E.,
Sec. 2, lots 1,2,3, and 4, S½N½ and S½;
Sec. 3, SE¼;
Sec. 7, lots 1 and 2, E½ and E½NW¼;
Sec. 8;
Sec. 9, W½;
Sec. 12, N½.
T. 9 S., R. 27 E.,
Sec. 5, lots 3 and 4 and S½NW¼.

Black Canyon Project, I–15079, I–15252. (56-year term)

T. 5 N., R. 3 W.,
Sec. 27, NE¼NE¼.
T. 6 S., R. 3 W.,
Sec. 15, SW¼NW¼ and NW¼SW¼;
Sec. 26, SW¼SW¼.
T. 6 N., R. 5 W.,
Sec. 35, N½S½SW¼NE¼.
T. 7 N., R. 5 W.,
Sec. 25, NW¼SW¼SW¼.

The areas described aggregate 9,416.28 acres in Canyon, Payette, Gem, Blaine, Jerome, Lincoln and Gooding counties.

The withdrawals are essential for protection of project developments for the Bureau of Reclamation. The withdrawals closed the land to surface entry and mining, but not to mineral leasing. No changes in the segregative effect or use of the land is proposed by this action.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments in connection with the proposed withdrawal continuations may present their views in writing to the Idaho State Director at the above address.

The authorized officer of the Bureau of Land Management will undertake such investigations as necessary to determine the existing and potential demand for the lands and their resources. A report will also be prepared for consideration by the Secretary of the Interior, the President, and Congress, who will determine whether or not the withdrawals will be continued; and if so, for how long. The final determination of the withdrawals will be published in the **Federal Register**. The existing withdrawals will continue until such final determination is made.

Dated: July 22, 1992

William E. Ireland,

Chief, Realty Operations Section.

[FR Doc. 92–18204 Filed 7–31–92; 8:45 am]

BILLING CODE 4310–GG–M

National Park Service

Plan of Operations and Environmental Assessment for Continuing Operation of the Sneed No. 2 Gas Well; Lake Meredith National Recreation Area, TX

Notice is hereby given in accordance with § 9.52(b) of title 36 of the Code of Federal Regulations that the National Park Service has received from Myriad Resources Corporation a Plan of Operations for continuing operation of the Sneed No. 2 Gas Well within Lake Meredith National Recreation Area, Hutchinson County, Texas.

The Plan of Operations and Environmental Assessment are available for public review and comment for a period of 30 days from the publication date of this notice in the Office of the Superintendent, Lake Meredith National Recreation Area, 419 East Broadway, Fritch, Texas; and the Southwest Regional Office, National Park Service, 1220 South St. Francis Drive, Room 211, Santa Fe, New Mexico. Copies are available from the Southwest Regional Office, Post Office Box 728, Santa Fe, New Mexico 87504–0728, and will be sent upon request.

Dated: July 22, 1992.

John E. Cook,

Regional Director, Southwest Region.

[FR Doc 92–18241 Filed 7–31–92; 8:45 am]

BILLING CODE 4310–70–M

Yosemite Valley Housing Plan; Draft Plan and Supplemental Environmental Impact Statement

SUMMARY: In accordance with section 102(2)(C) of the National Environmental Policy Act of 1969, Public Law 91–190, the National Park Service has prepared a Draft Yosemite Valley Housing Plan/Supplemental Environmental Impact Statement (EIS) to the 1980 Final General Management Plan/Environmental Impact Statement (GMP/EIS) for Yosemite National Park, Tuolumne, Mariposa and Madera Counties, California.

The supplementary environmental impact statement examines the effects of five alternatives for housing National Park Service and concession employees who work in Yosemite Valley. The proposed action would provide primary housing for 952 employees at a new development site at Foresta. Alternative A would provide primary housing for 1,395 employees at Foresta. Alternative B would provide primary housing for 934 employees at El Portal. Alternative C would provide primary housing for 1,014 employees in Yosemite Valley and improve existing housing units. Alternative D, no-action, would continue to house 1,359 employees in Yosemite Valley's existing housing units. The proposal and alternatives were analyzed for impacts on biotic communities, sensitive species, the Merced River, air quality, scenic quality, cultural resources, socio/economic concerns, Yosemite Valley visitors, park and concession operations, and energy consumption.

SUPPLEMENTARY INFORMATION: Comments on the draft plan and supplemental EIS should be received no later than September 30, 1992 and should be addressed to: Superintendent, Yosemite National Park, P.O. Box 577, Yosemite National Park, CA 95389. Requests for additional information and/or copies of the draft plan/supplemental EIS should be directed to this address or telephone number (209) 372–0202.

Copies of the draft plan/supplemental EIS are available at the park headquarters, at libraries in communities near the park and libraries in Los Angeles and San Francisco. Copies also are available for inspection at the following address: Western Regional Office, National Park Service, Division of Planning, Grants and Environmental Quality, 600 Harrison St., Suite 600, San Francisco, CA 94107–1372.

Dated: June 24, 1992.

Lewis Albert,

Regional Director, Western Region.

[FR Doc. 92–18242 Filed 7–31–92; 8:45 am]

BILLING CODE 4310–70–M

Delaware Water Gap National Recreation Area

AGENCY: National Park Service; Delaware Water Gap National Recreation Area Citizens Advisory Commission, Interior.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the date for the next meeting of the Delaware Water Gap National Recreation Area Citizens Advisory Commission. Notice of said meeting is required under the Federal Advisory Committee Act.

Date: September 12, 1992.

Time: 9 a.m.

Location: New Jersey District Office, Route 615, Walpack, New Jersey.

Date: October 24, 1992.

Time: 9 a.m.

Location: Northampton County Government Center, Easton, Pennsylvania.

AGENDA: The agenda will be devoted to committee reports, Superintendent's report, old business, new business, correspondence, identification of topics of concern. Opportunities for public comment to the Commission will be provided.

FOR FURTHER INFORMATION, CONTACT: Hal J. Grovert, Acting Superintendent; Delaware Water Gap National Recreation Area, Bushkill, PA 18324; 717–588–2435.

SUPPLEMENTARY INFORMATION:

The Delaware Water Gap National Recreation Area Citizens Advisory Commission was established by Public Law 100–573 to advise the Secretary of the Interior and the United States Congress on matters pertaining to the management and operation of the Delaware Water Gap National Recreation Area, as well as on other matters affecting the Recreation Area and its surrounding communities.

The meeting will be open to the public. Any member of the public may file with the Commission a written statement concerning agenda items. The statement should be addressed to The Delaware Water Gap National Recreation Area Citizens Advisory Commission, P.O. Box 284, Bushkill, PA 18324. Minutes of the meeting will be available for inspection four weeks after the meeting at the permanent headquarters of the Delaware Water Gap National Recreation Area located on River Road 1 mile east of U.S. Route 209, Bushkill, Pennsylvania.

Dennis R. Reidenbach,

Acting Regional Director, Mid-Atlantic Region.

[FR Doc. 92–18240 Filed 7–31–92; 8:45 am]

BILLING CODE 4310–70–M

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before July 25, 1992. Pursuant to § 60.13 of 36 CFR part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, P.O. Box 37127, Washington, DC 20013–7127. Written comments should be submitted by August 18, 1992.

Carol D. Shull,

Chief of Registration, National Register.

ALABAMA

Etowah County

Forrest Cemetery Chapel and Comfort Station, 1100 S. 15th Street., Gadsden, 92001069

Georgia

Fulton County

Atlanta Buggy Company and Ware—Hatcher Bros. Furniture Company, 530–544 Means St., Atlanta, 92001070

ILLINOIS

Cook County

Grant Park, (Chicago Park District MPS), Roughly, from the Chicago R. to E. McFetridge Dr. at Lake Michigan, Chicago, 92001075

MICHIGAN

Barry County

Carveth, John, House, 614 W. Main St., Middleville, 92001076

NEW YORK

Otsego County

Unadilla Village Historic District, (Unadilla Village MPS), Roughly, Main St. from Hopkins St. to Butternut Rd. and Bridge St. from Main to Watson St., Unadilla, 92001079

Unadilla Waterworks, (Village of Unadilla MPS), Jct. of Kilkenny Rd. and Clifton St. and jct. of Martin Brook Rd. and Rod & Gun Club Rd., Unadilla, 92001080

Rensselaer County

Melville, Herman, House, 2 144th St., Troy, 92001081

OHIO

Ashtabula County

Conneaut Light Station Keeper's Dwelling, (Light Stations of Ohio MPS), 1059 Harbor St., Conneaut, 92001078

Erie County

Mertz, John, House, 610 W. Washington, St., Sandusky, 92001077

TENNESSEE

Decatur County

Brooks, Dr. Beauregard Martin, House, TN 114 (Clifton Ferry Rd.) E of jct. with TN 69, Bath Springs, 92001074

Polk County

Center & Abernathy Store Building, (Tennessee Copper Basin MPS), 23–33 Ocoee St., Copperhill, 92001071

Central Headframe, (Tennessee Cooper Basin MPS), TN 68 S of jct. with US 64/74, Ducktown vicinity, 92001073

Kimsey Junior College (Tennessee Copper Basin MPS), 244 YN 68, Ducktown, 92001072

WASHINGTON

Pierce County

Tacoma Narrows Bridge Ruins, WA 16 over the Tacoma Narrows, Tacoma, 92001068

[FR Doc. 92–18286 Filed 7–31–92; 8:45 am]

BILLING CODE 4310–70–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

National Institutes of Health; Statement of Organization, Functions, and Delegations of Authority

Part H, chapter HN (National Institutes of Health) of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health and Human Services (40 FR 22859, May 27, 1975, as amended most recently at 57 FR 31382, July 15, 1992) is amended to reflect the following changes in the Office of Extramural Research (HNA3) within the Office of the Director, National Institutes of Health (OD/NIH) (HNA): (1) Revise the functional statement of the Office of Extramural Programs (HNA32); and (2) establish the Office of Policy for Extramural Research Administration (HNA34), and the Office of Laboratory Animal Research

(HNA35). This reorganization will strengthen the NIH oversight and management of grants policy programs and the protection of laboratory animals used in medical research.

Section HN–B, Organization and Functions, is amended as follows: (1) Under the heading Office of the Director, NIH (HNA), Office of Extramural Research (HNA3), Office of Extramural Programs (OEP) (HNA32), delete the OEP functional statement in its entirety and substitute the following:

Office of Extramural Programs (HNA32)

(1) Advises the Deputy Director for Extramural Research and the Assistant Director for Extramural Affairs on matters pertaining to the management of NIH extramural research programs;

(2) Develops and implements regulations, policies, and procedures governing scientific program management and reviews aspects of NIH extramural awards (grants, cooperative agreements and contracts);

(3) Establishes and maintains communication with the research institutes concerning policies and procedures dealing with the management of extramural programs; also acts to coordinate programs involving two or more institutes, as appropriate;

(4) Establishes and maintains communication between NIH and awardee and applicant institutions and investigators, e.g., reviews and clears for publication all proposed RFAs and PAs appearing in the Early Notification System to insure appropriate mechanisms are being selected;

(5) Develops and implements regulations, policies, and procedures regarding financial conflict of interest and promotion of research ethics and responsible conduct of research;

(6) Develops and implements regulations, policies, and procedures governing all aspects of extramural research training and development;

(7) Manages staff training activities for: (a) Health-related scientists in health science administration for the extramural programs of NIH/PHS; (b) NIH employees (Staff Training in Extramural Programs [STEP]); and (c) academic administrators, including those from minority and womens' institutions, to acquaint them with opportunities for NIH support of biomedical research and to enhance the research environment of these institutions;

(8) Fosters and maximizes competition in the awarding of research and development contracts throughout NIH; approving non-competitive contracts within established dollar thresholds;

(9) Manages the process of applicant appeals to the peer review and adverse post-award determinations of competing assistance applications;

(10) Oversees and coordinates the Small Business Innovation Research (SBIR), the Academic Research Enhancement Award (AREA), and the Small Instrumentation (SI) programs;

(11) Serves as the focal point for extramural research facility construction programs supported from the NIH Office of the Director (OD/NIH) appropriation; and

(12) Performs special studies relating to extramural issues.

(2) After the heading *Office of the Protection from Research Risks (HNA33)*, insert the following:

Office of Policy for Extramural Research Administration (HNA34)

(1) Assures effective grants administration policies and procedures to administer NIH extramural grant programs and provide stewardship of Federal funds;

(2) Maximizes research productivity, increases public accountability, enhances administrative integrity, and monitors fiscal stewardship in research administration systems;

(3) Ensures proper management of extramural resources at both the portfolio level (allocation issues), program level (strategic planning), and project level (cost analysis);

(4) Promotes the proper selection and effective use of assistance mechanisms by both NIH staff and the extramural community;

(5) Initiates new and modifies existing NIH grant administrative policies and procedures;

(6) Provides assistance to NIH extramural staff and grantee organizations regarding policies and procedures pertinent to the administration of NIH grants;

(7) Receives and maintains all documentation relating to extramural inventions made with the assistance of research grants or research and development contracts from NIH and ADAMHA;

(8) Establishes and maintains communication between NIH and awardee and applicant institutions and investigators; in particular, ensures the complete and timely publication of extramural policies and funding opportunities through the *NIH Guide for Grants and Contracts;* and

(9) Reviews for OMB clearance all application forms, proposed surveys, and questionnaires for information gathering activities conducted under research contracts as required by the Paperwork Reduction Act.

Office of Laboratory Animal Research (HNA35)

(1) Serves as principal advisor to the NIH Director (through the Deputy Director for Extramural Research [DDER]), on matters pertaining to animal research;

(2) Establishes policies for the appropriate handling of oral and written communications regarding animal research from the general public and Members of Congress;

(3) Responds to inquiries about animal research;

(4) Represents the NIH at national and international meetings of organizations and professional societies for the purpose of explaining NIH policies and initiatives on animal research;

(5) Establishes close working relationships with key scientists and officials of other Federal agencies, academia, the private sector, professional societies and voluntary health organizations on matters pertaining to animal research;

(6) Coordinates the activities of the PHS Coordinating Committee an Animal Research (CCAR); and

(7) Promotes interaction and information sharing on animal research issues.

Dated: July 15, 1992.

Bernadine Healy,

Director, National Institutes of Health.

[FR Doc. 92–18313 Filed 7–31–92; 8:45 am]

BILLING CODE 4140–01–M

INTERSTATE COMMERCE COMMISSION

[Finance Docket No. 31972]

Southern Electric Railroad Company—Construction—Plant Miller to Burlington Northern Railroad Near West Jefferson, AL

AGENCY: Interstate Commerce Commission.

ACTION: Notice of Availability of Environmental Assessment.

SUMMARY: By decision served March 17, 1992 in this proceeding, the Commission granted, subject to environmental review, Southern Electric Railroad Company's petition for exemption from the requirements of 49 U.S.C. 10901 for the construction of a 75 mile rail line in West Jefferson County, Alabama. The effective date of the decision was postponed until completion of the Commission's environmental review and further decision. The Commission has prepared its environmental assessment which concludes that subject to the

recommended mitigation conditions, the proposed action will not significantly affect either the quality of the human environment or the conservation of energy resources. The Commission will consider any comments to the environmental assessment before rendering a final decision in this proceeding.

DATES: Written comments must be filed by September 3, 1992.

ADDRESSES: Send an original and 10 copies of comments referring to Finance Docket No. 31972 to: (1) Section of Energy and Environment, room 3219, Interstate Commerce Commission, Washington, DC 20423, and one copy of the comments to: (2) Petitioner's representative: John Molm; Troutman Sanders; 600 Peachtree Street, NE; Suite 5200; Atlanta, GA 30308–2216.

FOR FURTHER INFORMATION CONTACT: John O'Connell (202) 927–6215 or Elaine K. Kaiser, Section Chief (202) 927–6248. (TDD for hearing impaired: (202) 275–1721.

SUPPLEMENTARY INFORMATION:

Copies of the Environmental Assessment may be obtained from the Section of Energy and Environment, Office of Economics, room 3219, Interstate Commerce Commission, Washington, DC 20423, (202) 927–6215. Assistance for the hearing impaired is available through TDD Services at (202) 927–5721.

By the Commission, Howard K. Face, Director, Office of Economics.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 92–18279 Filed 7–31–92; 8:45 am]

BILLING CODE 7035–01–M

DEPARTMENT OF JUSTICE

Lodging of Consent Decree Pursuant to the Clean Air Act

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that on July 23, 1992, a proposed Consent Decree in *United States of America* v. *Brimhall Sand, Rock and Building Material, Inc.* was lodged with the United States District Court for the District of Arizona.

The proposed Consent Decree resolves the United States' claims against Brimhall Sand, Rock and Building Materials, Inc. ("Defendant") under section 113(b)(3) of the Clean Air Act, 42 U.S.C. 7413(b)(3), as alleged in a complaint filed on February 25, 1992. The Complaint alleged that Defendant violated the New Source Performance Standards ("NSPS") for Hot Mix Asphalt Facilities, published at 40 CFR 60.90, *et seq.* Under the proposed Consent Decree the Defendant will pay a civil penalty to the United States of fifty-five thousand dollars and no cents ($55,000) and agrees to comply with a particulate matter management plan in the future.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, U.S. Department of Justice, Washington, DC 20530, and should refer to *United States of America* v. *Brimhall Sand, Rock and Building Material, Inc.*, DOJ Ref. No. 90–5–2–1–1540.

The proposed Consent Decree may be examined at the Office of the United States Attorney for the District of Arizona, 4000 United States Courthouse, 230 First Avenue, Phoenix, Arizona, 85025, or at the Office of the Regional Counsel, Environmental Protection Agency, 75 Hawthorne Street, San Francisco, California 94103. The proposed Consent Decree may be examined at the Consent Decree Library, 601 Pennsylvania Avenue Building, NW., Washington, DC 20004 (Tel.: (202) 347–2072). A copy of the proposed Consent Decree may be obtained in person or by mail from the Consent Decree Library, 601 Pennsylvania Avenue, NW., Box 1097, Washington, DC 20004. In requesting a copy, please enclose a check in the amount of five dollars and fifty cents ($5.50) (25 cents per page reproduction costs) payable to Consent Decree Library.

John C. Cruden,

Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 92–18270 Filed 7–31–92; 8:45 am]

BILLING CODE 4410–01–M

Lodging of Consent Decree Pursuant to Clean Air Act

In accordance with Department policy, 28 CFR 50.7, notice is hereby given that on July 16, 1992 a proposed Consent Decree in *United States* v. *Coleman Trucking Co., et al.*, was lodged in the United States District Court for the Northern District of Ohio. The Complaint filed by the United States alleged violations of the Clean Air Act, 42 U.S.C. 7401 *et seq.*, and the National Emissions Standards for Hazardous Air Pollutants (NESHAP) for Asbestos, 40 CFR part 61, subpart M. The Consent Decree requires Pearl Brook Co. to pay a civil penalty of $10,000 in full settlement of the claims against it set forth in the Complaint filed by the United States. The Consent Decree does not address the liability of other Defendants in this action. The Consent Decree further requires the Pearl Brook Co. to investigate the background of any asbestos contractors it hires.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments concerning the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, U.S. Department of Justice, P.O. Box 7611, Ben Franklin Station, Washington, DC 20044, and should refer to *United States* v. *Coleman Trucking Co., et al.*, D.J. Ref. No. 90–5–2–1–1378A.

The proposed Consent Decree may be examined at any of the following offices: (1) The United States Attorney for the Northern District of Ohio, Suite 500, 1404 East Ninth Street, Cleveland, Ohio 44114–1748 (contact Assistant United States Attorney James Bickett); (2) the U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604–3590 (contact Assistant Regional Counsel Deborah Schmitt); and (3) the Environmental Enforcement Section, Environment & Natural Resources Division, U.S. Department of Justice, room 1541, 10th & Pennsylvania Avenue, NW., Washington, DC. Copies of the proposed Consent Decree may be obtained in person or by mail from the Consent Decree Library, 601 Pennsylvania Avenue, N.W., Washington, D.C. 20044, telephone (202) 347–7829. For a copy of the Consent Decree please enclose a check in the amount of $3.50 (25 cents per page reproduction charge) payable to Consent Decree Library.

John C. Cruden,

Section Chief, Environmental Enforcement Section, Environment & Natural Resources Division.

[FR Doc. 92–18272 Filed 7–31–92; 8:45 am]

BILLING CODE 4410–01–M

Settlement Agreement Under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980; National Gypsum Co. et al

Notice is hereby given that a proposed settlement agreement in In re National Gypsum Company, et al., Case Nos. 390–37213–SAF–11 and 390–37214–SAF–11, has been lodged with the United States Bankruptcy Court for the Northern District of Texas, Dallas Division. The United States' Proof of Claim, filed on

May 29, 1991, alleged liability and sought recovery of response costs for the cleanup of hazardous wastes and natural resource damages at a number of sites under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), 42 U.S.C. 9601 *et seq.*, against the Debtors, National Gypsum and Aancor Holdings, Inc. The proposed settlement agreement provides for the settlement of the United States' claims under CERCLA against the Debtors for the following sites: Operable Unit I of the Asbestos Dump Site in Millington, New Jersey; the City Industries Site in Orlando, Florida; the Yellow Water Road Site in Jacksonville, Florida; the Coakley Landfill in North Hampton, New Hampshire; the H.O.D. Landfill in Antioch, Illinois; and the Yeoman Creek Landfill in Waukegan, Illinois.

The proposed settlement agreement settles the United States' claims against the Debtors for the above sites in exchange for the allowance of an administrative claim in the amount of $2.65 million for the Operable Unit I of the Millington Site and the allowance of a general unsecured prepetition claim in the amount of $850,000 for the other five sites.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *In re National Gypsum Company, et al.*, DOJ Ref. #90–11–2–689.

The proposed settlement agreement may be examined at the Office of the United States Attorney, Federal Building, 1100 Commerce Street, room 16 G 28, Dallas. Texas; at the Region II office of the Environmental Protection Agency, 26 Federal Plaza, New York, New York 10278; and at the Consent Decree Library, 601 Pennsylvania Avenue, NW., Washington, DC 20044, 202–347–2072. A copy of the proposed consent decree may be obtained in person or by mail from the Consent Decree Library, 601 Pennsylvania Avenue, NW., Box 1097, Washington, DC 20044. In requesting a copy, please refer to the referenced case and enclose a check in the amount of $3.50 (25 cents per page reproduction costs), payable to the Consent Decree Library.

Roger Clegg,

Acting Assistant Attorney General, Environment and Natural Resources Division.

[FR Doc. 92–18271 Filed 7–31–92; 8:45 am]

BILLING CODE 4410–01–M

Antitrust Division

Pursuant to the National Cooperative Research Act of 1984—the SQL Access Group, Inc.

Notice is hereby given that, pursuant to section 6(a) of the National Cooperative Research Act of 984, 15 U.S.C. 4301 *et seq.* ("the Act"), The SQL Access group, Inc. ("the Group") on July 6, 1992; has filed an additional written notification simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The additional notification was filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances.

On March 1, 1990, the Group filed its original notification pursuant to section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to section 6(b) of the Act on April 5, 1990 (55 FR 12750). On June 5, 1990, August 31, 1990, December 6, 1990, March 21, 1991, June 7, 1991, September 9, 1991, October 4, 1991, January 6, 1992, and April 6, 1992 the Group filed additional written notifications. The Department published a notice in the **Federal Register** in response to the additional notifications on July 18, 1990 (55 FR 29277), October 17, 1990 (55 FR 42081), January 7, 1991 (56 FR 536), April 25, 1991 (56 FR 19126), July 19, 1991 (56 FR 33308), October 8, 1991 (56 FR 50729), November 13, 1991 (56 FR 57665), March 24, 1992 (57 FR 10191) and May 11, 1992 (57 FR 20129), respectively. The following parties are no longer members of the Group: Honeywell, Inc., Minneapolis, MN; Infocentre Corporation, Saint-Laurent, Quebec, CANADA; Microelectronics and Computer Technology Corp. (MCC), Austin, TX; Sun Microsystems, Inc., Mountain View CA; and Uniface, Alameda, CA.

One member of the Group, NCR Corporation, San Diego, CA, purchased another member, Teradata Corporation, Los Angeles, CA. The resulting entity that is now the member of the Group is: NCR/Teradata, El Segundo, CA.

Joseph H. Widmar,

Director of Operations, Antitrust Division.

[FR Doc. 92–18269 Filed 7–31–92; 8:45 am]

BILLING CODE 4410–01–M

Drug Enforcement Administration

Manufacturer of Controlled Substances; Registration

By Notice dated October 31, 1991, and published in the Federal Register on November 12, 1991, (56FR57533), Orpharm, Inc., 728 West 19th Street, Houston, Texas 77008, made application to the Drug Enforcement Administration (DEA) to be registered as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Schedule
Alphacetylmethadol (9603)	I
Methadone (9250)	II

On December 10, 1991, Mallinckrodt Specialty Chemical Company, a currently registered manufacturer of methadone, filed objections and requested a hearing with respect to Orpharm's application to manufacture methadone. Accordingly, this matter was docketed by the Office of Administrative Law Judges as DEA Docket No. 92–47.

By stipluation filed with the Administrative Law Judge on May 20, 1992, the parties (DEA, Mallinckrodt and Orpharm) agreed to the withdrawal of Mallinckrodt's objection and the registration of Orpharm, Inc., as a manufacturer of methadone and LAAM. Pursuant to the stipulation, DEA will register Orpharm to manufacture methadone for conversion to LAAM only.

Therefore, pursuant to section 303 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 and title 21, Code of Federal Regulations, § 1301.54(e), the Deputy Assistant Administrator hereby orders that the application submitted by the above firm for registration as a bulk manufacturer of the basic classes of controlled substances listed above is granted.

Dated: July 27, 1992.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 92–18282 Filed 7–31–92; 8:45 am]

BILLING CODE 4410–09–M

Importation of Controlled Substances; Application

Pursuant to section 1008 of the Controlled Substances Import and Export Act (21 U.S.C. 958(i)), the Attorney General shall, prior to issuing a registration under this Section to a bulk manufacturer of a controlled substance I or II and prior to issuing a regulation under section 1002(a) authorizing the importation of such a substance, provide manufacturers holding registrations for the bulk

manufacture of the substance an opportunity for a hearing.

Therefore, in accordance with 1311.42 of title 21, Code of Federal Regulations (CFR), notice is hereby given that on April 3, 1992, Research Biochemicals, Inc., One Strathmore Road, Natick, Massachusetts 01760, made application to the Drug Enforcement Administration to be registered as an importer of the basic classes of controlled substances listed above:

Drug:	Schedule
Methaqualone (2565)	I
Ibogaine (7260)	I
Tetrahydrocannabinols (7370)	I
Bufotenine (7433)	I
Dimethyltryptamine (7435)	I
Etorphine (except HCl) (9056)	I
Methylphenidate (1724)	II
Etorphine HCl (9059)	II
Metazocine (9240)	II
Methadone (9250)	II
Fentanyl (9801)	II

Any manufacturer holding, or applying for, registration as a bulk manufacturer of these basic classes or controlled substances may file written comments on or objections to the application described above and may, at the same time, file a written request for a hearing on such application in accordance with 21 CFR 1301.54 in such form as prescribed by 21 CFR 1316.47.

Any such comments, objections, or requests for a hearing may be addressed to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, DC 20537, Attention: DEA Federal Register Representative (CCR), and must be filed no later than (30 days from publication).

This procedure is to be conducted simultaneously with and independent of the procedures described in 21 CFR 1311.42 (b), (c), (d), (e), and (f). As noted in a previous notice at 40 FR 43745–46 (September 23, 1975), all applicants for registration to import a basic class of any controlled substance in Schedule I or II are and will continue to be required to demonstrate to the Deputy Assistant Administrator of the Drug Enforcement Administration that the requirements for such registration pursuant to 21 U.S.C. 958(a), 21 U.S.C. 823(a), and 21 CFR 1311.42 (a), (b), (c), (d), (e), and (f) are satisfied.

Dated: July 23, 1992.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 92–18281 Filed 7–31–92; 8:45 am]

BILLING CODE 4410–09–M

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Records Schedules; Availability and Request for Comments

AGENCY: National Archives and Records Administration, Office of Records Administration.

ACTION. Notice of availability of proposed records schedules; request for comments.

SUMMARY: The National Archives and Records Administration (NARA) publishes notice at least once monthly of certain Federal agency requests for records disposition authority (records schedules). Records schedules identify records of sufficient value to warrant preservation in the National Archives of the United States. Schedules also authorize agencies after a specified period to dispose of records lacking administrative, legal, research, or other value. Notice is published for records schedules that (1) propose the destruction of records not previously authorized for disposal, or (2) reduce the retention period for records already authorized for disposal. NARA invites public comments on such schedules, as required by 44 U.S.C 3303a(a).

DATES: Request for copies must be received in writing on or before September 17, 1992. Once the appraisal of the records is completed, NARA will send a copy of the schedule. The requester will be given 30 days to submit comments.

ADDRESSES: Address requests for single copies of schedules identified in this notice to the Records Appraisal and Disposition Division (NIR), National Archives and Records Administration, Washington, DC 20408. Requesters must cite the control number assigned to each schedule when requesting a copy. The control number appears in the parentheses immediately after the name of the requesting agency.

SUPPLEMENTARY INFORMATION: Each year U.S. Government agencies create billions of records on paper, film, magnetic tape, and other media. In order to control this accumulation, agency records managers prepare records schedules specifying when the agency no longer needs the records and what happens to the records after this period. Some schedules are comprehensive and cover all the records of an agency or one of its major subdivisions. These comprehensive schedules provide for the eventual transfer to the National Archives of historically valuable records and authorize the disposal of all other records. Most schedules, however, cover records of only one office or program or a few series of records, and many are updates of previously approved schedules. Such schedules also may include records that are designated for permanent retention.

Destruction of records requires the approval of the Archivist of the United States. This approval is granted after a thorough study of the records that takes into account their administrative use by the agency of origin, the rights of the Government and of private persons directly affected by the Government's activities, and historical or other value.

This public notice identifies the Federal agencies and their subdivisions requesting disposition authority, includes the control number assigned to each schedule, and briefly describes the records proposed for disposal. The records schedule contains additional information about the records and their disposition. Further information about the disposition process will be furnished to each requester.

Schedules Pending

1. Department of Commerce, International Trade Administration (N1–151–92–4). Records of the Japan United Overseas Development Assistance Program.

2. Department of Energy, Pittsburgh Naval Reactors Office (N1–434–91–8). On-site payroll, personnel, inspection and accountability records.

3. Department of Energy, Nevada Field Office (N1–434–92–4). On-site personnel and administrative records.

4. Department of Health and Human Services, Centers for Disease Control (N1–442–91–4). Inputs to the Family of HIV Surveys master file.

5. Department of Justice, Bureau of Prisons (N1–129–92–1). Student and course files of the Staff Training Academy.

6. Department of Labor, Pension and Welfare Benefits Administration (N1–317–92–1). Annual reports filed by administrators or sponsors of employee pension benefits plans.

7. Department of Transportation, U.S. Coast Guard (N1–26–92–1). Files relating to medium and minor oil and hazardous substance discharges. (Files concerning major discharges are permanent.)

8. Department of Veterans Affairs, Veterans Health Administration (N1–15–92–4). Medical Inspector's investigation records.

9. African Development Foundation, Office of the President (N1–487–91–3). Memoranda concerning economic assistance project grants. (Copies are also found in project files which are permanent.)

10. National Archives and Records Administration (N2–169–92–1). Routine and facilitative records segregated from Foreign Economic Administration records accessioned by the National Archives.

11. Nuclear Regulatory Commission, Office of Nuclear Regulatory Research (N1–431–89–5). Experiment and test files whose technical value ceases upon project completion.

Dated: July 22, 1992.

Claudine J. Weiher,

Acting Archivist of the United States.

[FR Doc. 92–18202 Filed 7–31–92; 8:45 am]

BILLING CODE 7515–01–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 92–44]

NASA Advisory Council; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92–463, the National Aeronautics and Space Administration announces a meeting of the NASA Advisory Council.

DATES: August 24, 1992, 1 p.m. to 5 p.m.; and August 25, 1992, 9 a.m. to noon.

ADDRESSES: National Aeronautics and Space Administration, room 7002, 400 Maryland Avenue SW., Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Dr. Sylvia D. Fries, Code ADA–2, National Aeronautics and Space Administration, Washington, DC 20546, 202/453–8766.

SUPPLEMENTARY INFORMATION: The meeting will be open to the public up to the seating capacity of the room. The agenda for the meeting is as follows:

—NASA FY 1993 Budget Status
—Cassini Restructuring and Small Planetary Mission Planning
—Council Study Tasks
—High-Speed Civil Transport
—Lunar Outpost Studies
—U.S./Soviet Relations in Space

It is imperative that the meeting be held on these dates to accommodate the scheduling priorities of the key participants. Visitors will be requested to sign a visitor's register.

Dated: July 27, 1992.

John W. Gaff,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 92–18259 Filed 7–31–92; 8:45 am]

BILLING CODE 7510–01–M

NATIONAL CREDIT UNION ADMINISTRATION

Fees Paid By Federal Credit Unions

AGENCY: National Credit Union Administration (NCUA).

ACTION: Request for comments.

SUMMARY: The National Credit Union Administration Board is considering a modification of the operating fee scale for Federal Credit Unions. The current scale contains 2 asset brackets which determine the fee rate to be applied: one for assets below $298,113,750 and one for assets above $298,113,750. The proposed modification would limit the fee assessment to the first $1 billion of each Federal credit union's assets.

DATES: Comments are due September 2, 1992.

ADDRESSES: Send comments to Becky Baker, Secretary of the Board, National Credit Union Administration, 1776 G Street NW., Washington, DC 20456.

FOR FURTHER INFORMATION CONTACT: Herbert S. Yolles, Controller or David M. Marquis, Deputy Director of Examination and Insurance, at the above address, telephone (202) 682–9600.

SUPPLEMENTARY INFORMATION

Background

Prior to 1979, federal credit unions (FCU's) were charged separate chartering fees, examination fees, and supervision fees. The examination fees were based on the number of hours required for the examination and were collected at the conclusion of the examination, while the supervision fees were assessed annually based on each credit union's year-end assets. In 1979, section 105 of the Federal Credit Union Act (the Act) was amended to consolidate the three separate fees into a single operating fee.

Although the Act gives the NCUA Board the flexibility to determine the frequency, method and basis for the assessment, the operating fee has been collected on an annual basis since its inception in 1979, and has always been based on FCU assets. The Act requires that the NCUA Board, in setting the fee, give due consideration to the expenses of the agency and the ability of credit unions to pay.

Discussion

The replacement of the separate chartering, examination and supervision fees in 1979 with the single operating fee changed not only the mechanical aspects of NCUA's revenue collection process, but also the philosophical basis as well. Rather than various fees tied to specific services rendered, the operating fee is an overall assessments to fund NCUA's operations. The basic parameters are that the amount collected should be based on NCUA's expenses and that the assessment should be based on credit unions' ability to pay. In other words, it should be equitable.

In 1990 NCUA restructured the operating fee scale because it was felt that the scale did not give due consideration to the ability of credit unions to pay. The major ingredient of this restructuring was a consolidation of the scale from 14 rate brackets to 2 rate brackets. One rate, currently .000308262 is applied to each FCU's assets below $298,113,750, and the second rate, currently .0000898762, is applied to all assets above $298,113,750. The $298,113,750 dividing point between the two rates is adjusted or indexed each year based on FCU asset growth.

We believe that although the scale gives adequate consideration of the ability of FCU's to pay, it does not give adequate consideration to the costs incurred by the agency with regard to the largest FCU's. The amount of examination time and supervision time spent by NCUA is dependent on the size and condition of each FCU, and increases directly in relation to size. However, the amount of time we spend on the largest FCU's does not increase with asset size, and appears to be entirely dependent on the condition and circumstances of each particular credit union.

Our review of most recent data indicates that once the asset size of $1 billion is achieved, the examination and supervision time no longer correlates to assets. For example, during the past year, the examination and supervision time for those credit unions with assets exceeding $1 billion averaged 490 hours, however, only 576 hours was spent on the largest—with over $5 billion in assets, while 726 hours was spent on one credit union with assets of $1.4 billion. As of March 31, 1992, five FCU's reported assets in excess of $1 billion.

In keeping with the FCU Act requirement to consider our expenses in setting the operating fee, we believe that the assessment should not be applied to assets exceeding $1 billion in any FCU. We also believe that the $1 billion threshold should be indexed annually, as is the asset dividing point for the two rates.

Conclusion

We believe that the proposed modification of the operating fee scale would remove an inequity which currently exists in the fee scale and

would make the scale more in keeping with the requirements of the Federal Credit Union Act. Comment is requested on this proposed modification to the operating fee scale.

Paperwork Reduction Act, Regulatory Flexibility Act, and Executive Order 12612

The requirements of the Paperwork Reduction Act and the Regulatory Flexibility Act are not triggered by this request for comments since the request neither imposes paperwork collection requirements nor a significant economic impact on a substantial number of small credit unions. In addition, an analysis under Executive Order 12612, which requires NCUA to consider the effect of its actions on state interests, is not necessary since the request for comments only affects federally chartered credit unions.

By the National Credit Union Administration Board on July 28, 1992.

Becky Baker,

Secretary of the Board.

[FR Doc. 92–18292 Filed 7–31–92; 8:45 am]

BILLING CODE 7535–01–M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Arts; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Media Arts Advisory Panel (Media Arts Centers/ National Services I Section) to the National Council on the Arts will be held on August 25, 1992 from 9 a.m.–6:30 p.m. and August 26 from 9 a.m.–5:30 p.m. in room 716 at the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

A portion of this meeting will be open to the public on August 26 from 4 p.m.–5:30 p.m. The topic will be policy discussion.

The remaining portions of this meeting on August 25 from 9 a.m.–6:30 p.m. and August 26 from 9 a.m.–4 p.m. are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended. including information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman of November 20, 1991, these sessions will be closed to the public pursuant to subsection (c) (4), (6) and (9)(B) of section 552b of title 5, United States Code.

Any person may observe meetings, or portions thereof, of advisory panels which are open to the public, and may be permitted to participate in the panel's discussion at the discretion of the panel chairman and with the approval of the full-time Federal employee in attendance.

If you need special accommodations due to a disability, please contact the Office of Special Constituencies, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW., Washington, DC 20506, 202/682–5532, TTY 202/682–5496, at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Yvonne M. Sabine, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call (202) 682–5439.

Dated: July 24, 1992.

Yvonne M. Sabine,

Director, Panel Operations, National Endowment for the Arts.

[FR Doc. 92–18200 Filed 7–31–92; 8:45 am]

BILLING CODE 7537–01–M

National Endowment for the Arts; Media Arts Advisory Panel; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Media Arts Advisory Panel (Media Arts Centers/ National Services II Section) to the National Council on the Arts will be held on August 27, 1992 from 9 a.m.–6:30 p.m. and August 28 from 9 a.m.–5:30 p.m. in room 716 at the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

A portion of this meeting will be open to the public on August 28 from 4 p.m.–5:30 p.m. The topic will be policy discussion.

The remaining portions of this meeting on August 27 from 9 a.m.–6:30 p.m. and August 28 from 9 a.m.–4 p.m. are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman of November 20, 1991, these sessions will be closed to the public pursuant to subsection (c) (4), (6) and (9)(B) of section 552b of title 5, United States Code.

Any person may observe meetings, or portions thereof, of advisory panels which are open to the public, and may be permitted to participate in the panel's discussions at the discretion of the panel chairman and with the approval of the full-time Federal employee in attendance.

If you need special accommodations due to a disability, please contact the Office of Special Constituencies, National Endowment for the Arts, 1100 Pennsylvania Avenue NW., Washington, DC 20506, 202/682–5532, TTY 202/682–5496, at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Yvonne M. Sabine, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call (202) 682–5439.

Dated: July 24, 1992.

Yvonne M. Sabine,

Director, Panel Operations, National Endowment for the Arts.

[FR Doc. 92–18201 Filed 7–31–92; 8:45 am]

BILLING CODE 7537–01–M

NUCLEAR REGULATORY COMMISSION

Abnormal Occurrences For First Quarter CY 1992 Dissemination of Information

Section 208 of the Energy Reorganization Act of 1974, as amended, requires the NRC to disseminate information on abnormal occurrences (i.e., unscheduled incidents or events that the Commission determines are significant from the standpoint of public health and safety). During the first quarter of CY 1992, the following incidents at NRC licensees were determined to be abnormal occurrences (AOs) and are described below, together with the remedial actions taken. The events are also being included in NUREG–0090, Vol. 15, No. 1 ("Report to Congress on Abnormal Occurrences: January-March 1992"). This report will be available at the NRC's Public Document Room, 2120 L Street NW (Lower Level), Washington, DC 20555 about three weeks after the publication date of this **Federal Register** Notice.

Other NRC Licensees (Industrial Radiographers, Medical Institutions, Industrial Users, etc.)

92–1 Medical Therapy Misadministration at St. John Medical Center in Tulsa, Oklahoma

One of the AO reporting guidelines notes that a therapeutic exposure to a part of the body not scheduled to receive radiation can be considered an abnormal occurrence.

Date and Place: January 13–14, 1992; St. John Medical Center; Tulsa, Oklahoma.

Nature and Probable Consequences: On January 21, 1992, the licensee notified NRC Region IV that on January 20, 1992, a medical misadministration was discovered that involved two therapeutic radiation doses to a part of a patient's body that was not intended to be treated. The treatments were administered on January 13 and 14, 1992, by a cobalt-60 teletherapy unit.

The patient was scheduled to receive ten treatments of 300 rads each to the right scapula. After the second treatment was performed by the therapists, the oncologist reviewed the port film and noticed that 80 percent of the intended area had been missed. An investigation by the licensee determined that in simulating the treatment to be performed on the patient, the oncologist placed a mark on the patient's chest as indicated by the ceiling laser position. During treatment, however, the back pointer on the teletherapy unit was positioned on this mark. As the back pointer and ceiling laser result in different angles to the cobalt-60 radiation beam, the tissue volume treated was medial to the intended treatment site.

The oncologist amended the original prescription to include two additional treatment fractions to the appropriate area, bringing the total treatment dose to that area to the intended 3000 rads.

The patient was notified of the treatment error. The licensee stated that the misadministration should have no adverse effect on the patient.

Cause or Causes: There was a breakdown in communication between the oncologist and therapist during simulation. Either proper instruction was not given regarding patient positioning and which indicator to use, or it was not carried out correctly.

Actions Taken to Prevent Recurrence

Licensee: The licensee has reviewed this incident with all staff members and communicated by memo to all prescribing physicians explaining the different localization methods. In addition, the licensee's Quality Management Program was amended to require review of port films after the first treatment in a series; this would not have prevented a misadministration, but might have identified the error prior to the administration of the second treatment.

NRC: An inspection was conducted on February 13–14, 1992, to review the circumstances associated with the misadministration. The inspection report was forwarded to the licensee by letter dated April 6, 1992. Although no violations of NRC requirements were identified, the NRC was concerned that the misadministration was a result of a verbal miscommunication between the oncologist and the therapist. The licensee was requested to describe corrective actions taken to prevent such miscommunications among staff members.

* * * * *

92–2 Medical Therapy Misadministration at Harper Hospital in Detroit, Michigan

One of the AO reporting guidelines notes that a therapeutic exposure to a part of the body not scheduled to receive radiation can be considered an abnormal occurrence.

Date and Place: February 24, 1992; Harper Hospital; Detroit, Michigan.

Nature and Probable Consequences: On March 16, 1992, the licensee notified NRC Region III that on February 24, 1992, a patient with cancer had received a therapeutic radiation dose to the incorrect side of the chest area. (In accordance with NRC requirements, the therapeutic misadministration should have been reported to the NRC on February 25, 1992, i.e., within 24 hours of the time of discovery on February 24, 1992. However, the licensee did not properly categorize the event as a therapeutic misadministration until March 16, 1992).

The patient was scheduled to receive 28 daily treatments of 180 rads each to the right collar bone area and 90 rads each to tangential areas of the right breast. The treatment began on February 12, 1992, and eight treatments were delivered as prescribed. On February 24, 1992, however, the radiation therapists erroneously treated the left collar bone area instead of the intended treatment area on the right. The therapists discovered the error as they prepared to treat the two tangential areas of the left breast. The therapist repositioned the patient to treat the prescribed right breast. The treatment plan was then continued until the balance of the prescribed 28 treatments was completed.

The treating physician stated that in her judgment the misadministration did not compromise the patient's treatment, either from an underdose to the prescribed site or from the inadvertent dose to the incorrect area.

Cause or Causes: The radiation therapy technologists stated that the error occurred because they confused a leveling tattoo on the left collar bone area with the treatment tattoo on the right collar bone area. They also did not follow the procedures for confirming the accuracy of the treatment site for agreement with the prescribed treatment site as specified in the licensee's Quality Management Program.

In regard to the lateness of reporting the event to the NRC, the misadministration had been promptly reported to hospital management. However, the person responsible for reviewing the incident to determine if an NRC report was required used an incorrect draft of the hospital's policy manual which contained an error in its definition of a misadministration. The incident was not determined to be a misadministration and was therefore not reported to the NRC until March 16, 1992.

Actions Taken to Prevent Recurrence

Licensee: The remaining treatments in the patient's treatment series were performed by three technologists to assure treatment accuracy. The licensee is now using different tattoos for the treatment area and for leveling.

The licensee had implemented a written Quality Management Program on January 27, 1992. The program requires that before a treatment is administered, the details of the treatment must be checked for agreement with the prescription and plan of treatment and the accuracy of the treatment site must also be confirmed.

Therapists were provided further instruction on appropriate policies and procedures. The incomplete policy manual has been updated, and personnel have been trained on NRC misadministration reporting requirements.

NRC—A special inspection was conducted on March 26–27, 1992, to review the circumstances associated with the misadministration. On April 22, 1992, the NRC issued a Notice of Violation. Two violations of NRC requirements were identified: (1) Failure to follow the instructions of the Quality Management Program, and (2) failure to report the misadministration no later

than the next day following its discovery.

* * * * *

92–3 Multiple Medical Therapy Misadministrations at G. Anthony Doener, M.D., Facility in Freehold, New Jersey

One of the AO reporting guidelines notes that a therapeutic misadministration affecting two or more patients at the same facility can be considered an abnormal occurrence.

Date and Place—July 1, 1990 to February 28, 1992; G. Anthony Doener, M.D., facility; Freehold, New Jersey.

Nature and Probable Consequences—On March 18, 1992, the current consulting teletherapy physicist for the licensee informed NRC Region I of numerous therapeutic misadministrations that occurred between July 1990 and February 28, 1992. The physicist reported that patients who had received external beam therapy from a Picker Corporation Model 6103 (C–1000) teletherapy unit may have been underdosed by about 15 to 40% of the intended doses.

The misadministrations appeared to have resulted from an error introduced by the licensee's previous consulting teletherapy physicist into tables of treatment times he generated for various field sizes and treatment depths. The erroneous treatment times were then used by the licensee in treating patients. According to the licensee, approximately 13 patients were involved. One patient was undergoing treatment when the error was identified on February 28, 1992, and this patient's treatment time was adjusted to correct for the error prior to completion of treatment.

On March 26, 1992, the NRC issued Confirmatory Action Letter (CAL) No. 92–004 to confirm the actions taken, or to be taken, by the licensee.

The previous teletherapy physicist was contacted by telephone on March 18, 1992 and interviewed by NRC Region I on April 2, 1992. On both occasions, the previous teletherapy physicist stated that he had discovered in late 1990 the error in the treatment time charts he had prepared for January through December 1991. He stated that he had mailed corrected time charts for 1991 along with a hand written note to the licensee the first week of January 1991. He did not recall what the note stated nor did he maintain a copy of the note. He did not send the charts via certified mail nor did he attempt to contact the licensee by telephone to inform the licensee of the error. He was not aware that a similar error had occurred in charts he provided to the licensee for the period July 1990 to December 1990. The authorized user and office manager stated that they had not received corrected time charts for either 1990 or 1991.

The licensee has submitted all required documentation/reports of the misadministrations to the NRC. Based on the licensee's review of patient treatment charts, two patients have received supplemental treatment. Three of the patients are deceased and the licensee reported that the remaining eight patients would not be adversely affected. According to the licensee, the patients were notified of the treatment error by phone and in writing.

Cause or Causes—The probable causes are (1) failure of the authorized user to identify the previous physicist's error on treatment time charts through independent verification, and (2) failure of the previous physicist to perform a secondary check of treatment times for charts prepared for July 1990 through December 1990.

Actions Taken to Prevent Recurrence

Licensee—Corrected treatment time charts were provided to the licensee by the current teletherapy physicist. These charts are currently being used by the licensee. The current teletherapy physicist will provide treatment time charts to the licensee on a bi-monthly basis.

Treatment times will be independently verified by the current teletherapy physicist on a weekly basis or when treatment times for a patient currently being treated are changed.

The licensee has submitted a Quality Management Plan to the NRC. The plan is being reviewed.

NRC—Inspections were conducted at the licensee's facility on March 19 and April 22, 1992. Activities authorized by the licenses were inspected. In addition, actions taken in response to the CAL were reviewed.

The inspector verified by calculation that the treatment time charts contained errors and that the error began on the July 1990 time chart. The average error determined by the inspector was 20%. The inspector was unable to verify that corrected treatment time charts had been provided to the licensee for 1991. The licensee learned on March 13, 1992, that the misadministrations had occurred, but did not report them to NRC Region I until March 18, 1992. Records of misadministrations required by 10 CFR part 35 were properly maintained by the licensee. Corrected treatment time charts provided by the current teletherapy physicist were checked by the inspector and found to contain accurate treatment times. The inspector reviewed treatment charts for patients currently being treated and found that corrected treatment times were being used.

The inspector found that seven of eight commitments listed in the CAL had been completed at the time of the inspection. The action not completed by the licensee was to have the teletherapy physicist independently review all patient charts from the date the misadministrations began through December 1991 to identify all patients subjected to a misadministration. A letter from the licensee dated May 1, 1992, stated that patient charts from July 1990 through December 1991 have been sent to the current teletherapy physicist for review. The CAL is considered closed and authorization was given to the licensee to resume patient treatments.

The misadministrations did not appear to be the result of violations of NRC requirements. However, the inspector identified a number of apparent violations of licensed activities, including: (1) Failure to perform a full calibration at intervals not to exceed one year; (2) failure to notify NRC Region I by telephone within 24 hours of a therapeutic misadministration; (3) failure of monthly spot checks to include a determination of timer on-off error and timer linearity over the range of use; (4) failure of the licensee to require the teletherapy physicist to review teletherapy spot check results within 15 days; (5) failure to perform an adequate accuracy test of the dose calibrator; and (6) failure to mathematically correct dose calibrator reading for a linearity error exceeding 10 percent. Items 3, 4, and 5 above are repeat violations. A Notice of Violation was issued.

The licensee's Quality Management Plan has been submitted to the NRC and is being reviewed.

The NRC medical consultant is currently reviewing the incident.

Dated at Rockville, MD this 28th day of July 1992.

For The Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 92–18288 Filed 7–31–92; 8:45 am]

BILLING CODE 7590–01–M

Advisory Committee on Reactor Safeguards Meeting of the Subcommittee on Computers in Nuclear Power Plant Operations; Meeting

The ACRS Subcommittee on Computers in Nuclear Power Plant Operations will hold a meeting on August 20–21, 1992, in the Old Georgetown Room, at the Hyatt Regency, One Bethesda Metro Center, Bethesda, MD.

The entire meeting will be open to public attendance.

The agenda for the subject meeting shall be as follows:

Thursday, August 20, 1992—8:30 a.m. until the conclusion of business.

Friday, August 21, 1992—8:30 a.m. until the conclusion of business.

The Subcommittee will continue its review of hardware and software issues for digital Instrumentation and Control (I&C) systems. National experts will discuss software design concepts including safety, reliability, fault-tolerance, formal methods, and verification and validation.

Oral statements may be presented by members of the public with the concurrence of the Subcommittee Chairman; written statements will be accepted and made available to the Committee. Recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and staff. Persons desiring to make oral statements should notify the ACRS staff member named below as far in advance as is practicable so that appropriate arrangments can be made.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations from national experts in industry and government and from the NRC staff and its consultants. At the end of each day, following the presentations, a roundtable discussion will be held.

Further information regarding topics to be discussed, the scheduling of sessions open to the public, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant ACRS staff engineer, Mr. Herman Alderman (telephone 301/492–7750) between 7:30 a.m. and 4:15 p.m. (EST). Persons planning to attend this meeting are urged to contact the above named individual one or two days before the scheduled meeting to be advised of any changes in schedule, etc., that may have occurred.

Dated: July 27, 1992.

Sam Duraiswamy,

Chief, Nuclear Reactors Branch.

[FR Doc. 92–18289 Filed 7–31–92; 8:45 am]

BILLING CODE 7590–01–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–29]

Exemption

In the matter of Yankee Atomic Electric Company (Yankee Nuclear Power Station)

I.

The Yankee Atomic Electric Company (YAEC or the licensee), is the holder of Operating License No. DPR–3 which authorizes possession, operation and maintenance of the Yankee Nuclear Power Station (facility or plant). The license provides, among other things, that the plant is subject to all rules, regulations, and Orders of the Commission now or hereafter in effect.

The facility is a pressurized water reactor, currently in the process of being decommissioned, and located at the licensee's site in Franklin County, Massachusetts. The plant is shut down and the reactor is defueled.

II.

In a letter dated February 27, 1992, from the licensee, we were informed that YAEC had permanently ceased power operations, removed the fuel from the reactor to the fuel pool and had begun to develop detailed plans to decommission the facility. The staff subsequently issued a Confirmatory Action Letter (CAL) dated April 7, 1992, which confirmed these commitments. By letter dated May 22, 1992, the licensee requested an exemption from certain requirements of 10 CFR 50–Appendix E, namely Sections IV.F.2 and IV.F.3, all in accordance with 10 CFR 50.12. A portion of the emergency preparedness exercise training requirements of 10 CFR 50–Appendix E is contained in Sections IV.F.2 and IV.F.3. Section IV.F.2 requires an annual exercise, scheduled next in November 1992. Section IV.F.3 requires biennial offsite exercises with applicable state and local governments. These training exercises would demonstrate the capability of the licensee and State and Local authorities to adequately implement their emergency plans.

III.

In the licensee's letter of May 22, 1992, the justification presented for the exemption request was that the reactor had been defueled and the fuel removed from the containment (Vapor Container) to the spent fuel storage pool (Fuel Pit) and subsequently could not be returned to the containment because of the NRC CAL of April 7, 1992. Therefore, YAEC compliance with 10 CFR part 50, appendix E, section IV.F.2 for the next scheduled exercise in November 1992 and section IV.F.3 on a permanent basis is no longer needed. However, the licensee will continue exercises, on an annual basis, that will reflect Fuel Pit accident scenarios only. This exercise will be part of a Defueled Emergency Plan that was received for review and approved by the NRC by letter dated July 2, 1992.

The Commission will not consider granting an exemption unless special circumstances are present. In the licensee's letter of May 22, 1992, these special circumstances were addressed as follows:

10 CFR 50.12(a)(2)(ii)—"Application of the regulation in the particular circumstances would not serve the underlying purpose of the rule.* * *"

Licensee's response: (Section IV.F.2) The degree of emergency planning and preparedness necessary to provide adequate protection of the public health and safety in a permanently shut down and defueled condition is significantly less than that provided by the existing YNPS Emergency Plan. Therefore, exercising the existing Plan would not serve the underlying purpose of the rule.

(Section IV.F.3) The purpose of this section is to test the integrated capability of licensee personnel and State and Local authorities to adequately assess and respond to an accident having offsite consequences. However, in a permanently shutdown and defueled condition, there are no design basis events that could result in offsite consequences. There is no potential for releases of radioactive materials beyond the protected area in quantities that would result in doses which exceed the EPA's Protective Action Guidelines. Therefore, the purpose of the rule would not be served by conducting biennial full or partial emergency preparedness exercises.

10 CFR 50.12(a)(2)(iii)—"Compliance would result in undue hardship or other costs that are significantly in excess of those contemplated when the regulation was adopted,* * *"

Licensee's response: (Section IV.F.2) Preparing and conducting the annual exercise scheduled in November 1992, will result in a misallocation of monetary and human resources. YAEC would apply these resources to timely development of and training on a plan that is representative of the substantially reduced risks associated with a permanently shutdown and defueled facility. If granted, the exemption would allow YAEC to apply its resources to revising the existing emergency plans to reflect the reduced potential risks.

(Section IV.F.3) Conducting a full or partial participation exercise would result in undue hardship and costs, and represent a misallocation of planning and training resources. A plan based on the permanently shutdown and defueled condition of YNPS translates into the preparation and testing of a smaller response organization, fewer response facilities, fewer controllers and observers, and a greatly reduced need for FEMA evaluators. YAEC proposes that monetary and human resources will be used best to revise the existing plans and procedures to reflect a permanently shutdown and defueled facility.

The licensee also stated that granting the exemption would not present an undue risk to the public health and safety because the potential risks associated with a permanently shutdown and defueled facility are substantially less than those of an operating facility.

IV.

The NRC staff has reviewed the licensee's accident analysis supporting the exemption request and has independently calculated the offsite doses resulting from the fuel handling accident which, by licensee analysis, is the limiting accident for current, defueled conditions. Both the licensee's and the staff's calculations show that offsite doses resulting from the postulated fuel handling accident are well below the EPA's Protective Action Guides at the exclusion area boundary. The staff, therefore, agrees with the licensee's analysis as presented in their letter, dated May 22, 1992, and concludes that sufficient bases have been presented for our approval of the exemption request. In addition, the staff finds that there are special circumstances presented that satisfy the requirements of 10 CFR 50.12(a)(2)(ii) and (iii). In the event that the licensee seeks to resume operation, this exemption will terminate.

V.

Based on the above evaluation, the Commission has determined that pursuant to 10 CFR 50.12(a)(1), this exemption is authorized by law, will not present an undue risk to the public health and safety and is consistent with the common defense and security.

Accordingly, the Commission hereby grants an exemption to the requirements contained within 10 CFR part 50, appendix E, section IV.F.2, for the scheduled November 1992, exercise and to section IV.F.3, on a permanent basis, for the facility, provided, however, that this exemption will terminate in the event the licensee seeks to resume operating the facility.

Pursuant to 10 CFR 51.32, the Commission has determined that the granting of this exemption will not have a significant effect on the quality of the human environment (57 FR 30761).

This exemption is effective upon issuance.

Dated at Rockville, Maryland this 24th day of July 1992.

For the Nuclear Regulatory Commission.

Bruce A. Boger,

Director, Division of Reactor Projects III/IV, Office of Nuclear Reactor Regulation.

[FR Doc. 92-18287 Filed 7-31-92; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF PERSONNEL MANAGEMENT

Request for Approval of Client Satisfaction Survey Submitted to OMB for Clearance

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1980 (title 44, U.S. Code, chapter 35), this notice announces a revision of an information collection, "Office of Personnel Management Client Satisfaction Survey." The purpose of this survey questionnaire is to determine how well the Office of Personnel Management has served Federal Civil Service annuitants.

The total number of annuitants sampled annually will be approximately 1,500, for a total annual public burden of approximately 450 hours. For copies of this proposal, call C. Ronald Trueworthy on (703) 908-8550.

DATES: Comments on this proposal should be received by September 23, 1992.

ADDRESSES: Send or deliver comments to—

Daniel A. Green, Chief, Quality Assurance Division, Retirement and Insurance Group, U.S. Office of Personnel Management, 1900 E. Street, NW., room 3453, 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.

Douglas A. Brook,

Acting Director.

[FR Doc. 92-18198 Filed 7-31-92; 8:45 am]

BILLING CODE 6325-01-M

SECURITIES AND EXCHANGE COMMISSION

Forms Under Review by Office of Management and Budget

Agency Clearance Officer—Kenneth A. Fogash (202) 272-2142.

Upon written request copy available from: Securities and Exchange Commission, Office of Filings, Information, and Consumer Services, Washington, DC 20549.

Proposed New Forms and Regulation:

Form SB-1—File No. 270-366
Form 10-SB—File No. 270-367
Form 10-KSB—File No. 270-368
Form 10-QSB—File No. 270-369
Proposed Regulation S-B—File No. 270-370

Proposed Amendments to:

Form S-2—File No. 270-60
Form S-3—File No. 270-61
Form S-4—File No. 270-287
Form S-8—File No. 270-66
Form 8-K—File No. 270-50
Regulation A—File No. 270-110
Regulation 14A—File No. 270-56
Regulation 14C—File No. 270-57
Industry Guide—File No. 270-69

Proposed Amendments Will Affect:

Form S-1—File No. 270-58
Form S-11—File No. 270-64
Form 10—File No. 270-51
Form 10-Q—File No. 270-49
Form 10-K—File No. 270-48
Regulation S-K—File No. 270-2
Regulation S-X—File No. 270-3

Notice is hereby given pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*), that the Securities

and Exchange Commission ("Commission") has submitted for OMB approval the following proposed new forms:

Form SB–1 (1933 Act registration of securities offered by "small business issuers"). It is estimated that 384 forms will be filed annually and that each form will result in 925 burden hours.

Form 10–SB (1934 Act registration of a class of securities by a "small business issuer"). It is estimated that 60 forms will be filed annually and that each form will result in 95 burden hours.

Form 10–KSB (1934 Act annual report form for "small business issuers"). It is estimated that 3,225 forms will be filed annually and that each form will result in 1,271 burden hours.

Form 10–QSB (1934 Act quarterly report form for "small business issuers"). It is estimated that 9,708 forms will be filed annually and that each form will result in 131 burden hours.

Proposed Regulation S–B will be assigned one burden hour for administrative convenience since the burden hours that will be imposed by the regulation if adopted will be reflected in the burden hours for the forms listed above.

The Commission also has submitted for OMB approval proposed amendments to the following existing forms and regulations:

Form S–2 (1933 Act registration statement) would affect approximately 334 filers and result in 567 burden hours per form.

Form S–3 (1933 Act registration statement) would affect approximately 1,730 filers and result in 419 burden hours per form.

Form S–4 (1933 Act registration statement) would affect approximately 505 filers and result in 1257 burden hours per form.

Form S–8 (1933 Act registration statement for the registration of employee benefit plan securities) would affect approximately 2,854 filers and result in 47 burden hours per form.

Form 8–K (1934 Act form used for current reports required by Rule 13a–11 or Rule 15d–11 would affect approximately 11,850 filers and results in 5 burden hours per form.

Regulation A (General exemptions form registration under the Securities Act) would affect approximately 326 filers and result in 620 burden hours.

Regulation 14A (Rules governing the solicitation of proxies) would affect approximately 8,733 filers and result in 95 burden hours.

Regulation 14C (Rules governing the distribution of information pursuant to 1934 Act section 14C) would affect approximately 63 filers and results in 91 burden hours.

Industry Guide (disclosure requirements relating to mining companies). For administrative purposes the total annual burden for all industry guides as a whole is one hour.

The proposed amendments to existing forms and creation of new forms for use by small business issuers would result in decreased reliance on Form S–1 (1933 Act registration statement), Form S–11 (1933 Act registration statement for securities of certain real estate companies), Form 10 (1934 Act registration statement), Form 10–K (1934 Act annual report), Form 10–Q (1934 Act quarterly report), Regulation S–K (Standard instructions for filing forms under the 1933 Act, 1934 Act, and Energy Policy and Conservation Act of 1975), and Regulation S–X (Form and Content of and Requirements for Financial Statements, 1933 Act, 1934 Act, Public Utility Holding Company Act of 1935, Investment Company Act of 1940, and Energy Policy and Conservation Act of 1975).

The net effect of the creation of the proposed new forms and proposed revisions to existing forms is expected to be a significant decrease in the burden hours required for the collection of information from small business issuers.

The estimated average burden hours are made solely for purposes of the Paperwork Reduction Act and are not derived from a comprehensive or even a representative survey or study of the costs of Commission rules or forms. General comments regarding the estimated burden hours should be directed to Gary Waxman at the address below. Any comments concerning the accuracy of the estimated average burden hours for compliance with Commission rules and forms should be directed to Kenneth A. Fogash, Deputy Executive Director, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549 and Gary Waxman, (PRA Project Nos. 3235–0057; 3235–0059; 3235–0060; 3235–0066; 3235–0069; 3235–0072; 3235–0073; 3235–0286; and 3235–0324), Clearance Officer, Office of Management and Budget, room 3208, New Executive Office Building, Washington, DC 20503.

Dated: July 23, 1992.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92–18277 Filed 7–31–92; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–30961; File No. SR–NASD–92–16]

Self-Regulatory Organizations; Notice of Proposed Rule Change by National Association of Securities Dealers, Inc. Relating To Trading Consolidated Quotation Service Securities in the SelectNet Service

July 27, 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 1, 1992, the National Association of Securities Dealers, Inc. ("NASD" or "Association") filed with the Securities and Exchange Commission ("Commission" or "SEC") a proposed rule change as described in Items I, II, and III below, which Items have been prepared by the NASD. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The NASD is proposing to enhance operation of the SelectNet service by adding Consolidated Quotation Service ("CQS") securities to those eligible for trading through SelectNet.

II. Self-Regulatory Organization's Statement of the Purpose of and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the NASD included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The NASD has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

SelectNet is the screen-based trading system offered to members of the NASD to facilitate negotiation of transactions in securities through automated means, by-passing the need for telephone contact. SelectNet allows members to enter orders, direct orders to one or all market makers in a security, and negotiate the terms of the orders through counter-offers entered into the system. The NASD is proposing to enhance SelectNet to include the ability to trade CQS securities.

The proposed SelectNet modifications will provide the same efficient, cost-effective negotiation and execution capability as is now available for Nasdaq securities to members trading CQS securities. Currently, the SelectNet service offers many features to facilitate members' trading of Nasdaq securities:

- Order entry firms may preference one particular market maker registered in the issue, may broadcast an order to all market makers registered in the stock, or may preference one market maker for a limited time and then broadcast any unexpected portion of the order;
- Market makers using SelectNet on an order-entry basis may preference orders or may broadcast orders to all broker-dealer members;
- Broadcast orders may be entered anonymously, or my be identified as to the order entry firm;
- Orders may be timed to expire anywhere from three to 99 minutes, or may be entered as day orders or after-hours orders;
- Orders may be entered as "all or none," or sent in which a minimum acceptable size of execution specified; and
- Negotiation between two parties is possible through the service with offers and counter-offers.

In addition, SelectNet provides the ability for price improvement of agency or principal orders by permitting orders to be entered, negotiated and executed at prices between the best bids or offers as shown in the Nasdaq system. Members report that SelectNet is frequently used by order entry firms to broadcast orders priced between the spread to all market makers in the security and that the broadcasts often result in discernable price improvement for those orders. For orders in CQS issues, SelectNet will operate with all of these same features. In addition, the system will screen incoming order to ascertain that the market for the stock is open (that is, not subject to a regulatory trading halt), and that any preferenced market maker is registered as a CQS market maker in the stock. During the pendency of a regulatory trading halt, or if an order is directed to a market maker that is not registered in the stock, SelectNet will reject orders placed in the system.

Trading in the Nasdaq market utilizing the SelectNet service will not affect members' obligations under other regulations, such as the requirements associated with participation in the Intermarket Trading System/Computer Assisted Execution System ("ITS/CAES"). ITS/CAES market makers that are linked to the exchanges through the ITS linkage remain fully subject to the provisions of the ITS Plan.

Transactions in CQS securities executed during the hours of operation of the Consolidated Tape Association ("CTA") will be trade-reported immediately after execution to the processor for dissemination via the consolidated tape. The NASD is a participant in the CTA and as such is required to submit trade reports in eligible securities to the processor within 90 seconds after execution. Executions through the SelectNet service result in locked-in trades with trade reports generated automatically and instantaneously by the service, routed through the NASD's Automated Confirmation Transaction ("ACT") service for trade reporting and risk management calculations and delivered to the consolidated tape.

The SEC has recently approved operation of the SelectNet service for off-hours sessions.[1] These sessions will extend the hours of operation for SelectNet to include a one-half hour pre-opening session (*i.e.*, between 9 a.m. and 9:30 a.m. Eastern Time) and an after-hours session extending from market closing at 4 p.m. until 5:15 p.m. Eastern Time. Trade reports for executions taking place in the early morning session will be captured real-time as they occur, and sent to the CTA processor for disseminations as soon as the system begins trade reporting. Currently the processor begins dissemination of last sale trade reports at market opening, 9:30 a.m. Eastern Time, and if this time frame remains constant, any trades occurring during the SelectNet pre-opening session will be designated with a special indicator, or marked ".SLD" to distinguish these trades from transactions at the opening so as to avoid investor confusion if the reported prices are different from prices at the opening.

Trades occurring in CQS issues after the close of normal market hours will be trade reported to the CTZ processor as they occur. The processor is operational during this session, therefore dissemination of these trade reports will occur on a trade-by-trade basis as the transactions occur.

The NASD is aware that SelectNet participants that are also members of national securities exchanges may not be permitted, because of exchange rules, to utilize the SelectNet service to trade non-Rule 19c–3 securities as principal.[2] SelectNet is, however, available to those members: (1) Effecting transactions as an agent in non-Rule 19c–3 securities; and (2) trading Rule 19c–3 securities as principal as well as effecting transactions as an agent. Members of the NASD that are not members of an exchange with off-board trading restrictions may of course use SelectNet for the trading of all CQS securities.[3]

Making CQS securities eligible for trading through SelectNet responds to members' desires for automated means of trading CQS securities and will provide members with enhanced functionality and service for those transactions. The proposed modification to SelectNet provides NASD members with the benefits of enhanced execution and price improvement capability and cost effective locked-in trades for transactions in CQS securities. In addition, the NASD considers the SelectNet service an essential component for providing continuous communications capability during normal and emergency market conditions, and the addition of CQS securities will enhance that functionality.

The NASD believes the proposed rule change is consistent with section 15A(b)(6) and 11A(a)(1) (B) and (C) of the Act. Section 15A(b)(6) requires that the rules of a national securities association be designed to "foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market." Section 11A states that "new data processing and communications techniques create the opportunity for more efficient and effective market operations" and also that it is in the public interest to assure "economically efficient execution of securities transactions." SelectNet is a communications service designed to accommodate efficient and economic negotiations and executions, timely trade reporting, and locked-in trades.

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[1] Securities Exchange Act Release No. 30581 (April 14, 1992), 57 FR 14596.

[2] Rule 19c–3 under the Act provides that no exchange policy or practice shall prohibit any exchange member from effecting transactions off the exchange in a security that was not listed on an exchange as of April 26, 1979, and has not been continually listed thereafter.

[3] Increased utilization of Third Market trading systems underscores the importance of addressing the application of off-board trading restrictions outside of normal market hours. The NASD has recommended that this important competitive issue be reviewed in the framework of the Commission's upcoming "Market 2000" study.

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

Comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the NASD consents, the Commission will:

A. By order approve such proposed rule change, or

B. Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission 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 August 24, 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. 92-18280 Filed 7-31-92; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF STATE

[Public Notice 1663]

Bureau of Diplomatic Security; Antiterrorism Assistance Training Program

In accordance with the requirements set forth in Office of Management and Budget Circular No. A-102 and A-110, the Department of State hereby gives advance public notice of the intention to establish a Cooperative Agreement for furthering the objectives of the Antiterrorism Assistance Program (22 U.S.C. 2349 aa, et seq). Under this authority, the Department of State provides assistance to foreign security and law enforcement personnel to enhance their abilities to deter the activities of international terrorists and terrorist groups.

The Department is currently developing technical specifications and a Statement of Work (SOW) to solicit responses from state and local governments and institutions of higher education. The SOW will identify training support requirements, to include:

—Professional law enforcement training services to instruct foreign national police/government officials in the methodology and techniques for deterring the activities of terrorists and terrorist organizations.
—Criteria for instructor personnel. Training expertise will require persons with a broad range of experience in law enforcement disciplines. In addition, specialized practical knowledge of the explosive devices and weapons used by terrorists and the methods of use of those items is required. Instructor personnel will be required to possess oral and written communications skills commensurate with the subject matter. Physical fitness of instructor personnel to perform assigned duties is a requirement.
—Deliverables
—Listing and description of labor categories
—Location of the training site
—Training schedule
—Labor hour level-of-effort

The Cooperative Agreement advertised herein is designed for a five year term; i.e., one base year plus four option years to be exercised at the discretion of the Government. The ordering of instructor services will be by delivery order, each such order specifying the functional requirements, labor category, deliverable product, and performance schedule. It is estimated that the minimum guaranteed effort will be 10,000 labor hours in any one year.

Training facilities and logistics support are not part of this advertised requirement. Training exercises will be conducted at the Louisiana State Police Academy, Baton Rouge, Louisiana, unless otherwise specified in delivery orders.

Course development is likewise not part of this advertised requirement. Instructional texts will be supplied by the Government. However, the provider under this proposed Cooperative Agreement shall be qualified and prepared to develop additional training materials as may be required for instructing participants. For example, subjects such as understanding explosives, recognizing improvised explosive devices, conducting explosive searches, implementing render-safe procedures, and related antiterrorism training subjects which might emerge as unplanned, but vital, course material.

It is estimated that the proposed Cooperative Agreement will be awarded as early as December 15, 1992. Award will be for one year. Option year renewal by the Government will be in one-year increments on a non-competitive basis.

State and local governments and educational institutions desiring to respond to this notice may request copies of the requirements package from: Rudy G. Hall, DS/OSA/ASD, P.O. Box 3590, Washington, DC 20007-0090.

Dated: July 21, 1992.

June E. Callahan,

Bureau of Diplomatic Security, Department of State.

[FR Doc. 92-18199 Filed 7-31-92; 8:45 am]

BILLING CODE 4710-43-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-30960; File No. SR-NASD-92-30]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by National Association of Securities Dealers, Inc. Relating to Simplified Arbitration Procedures Under the NASD Code of Arbitration Procedure

July 27, 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 July 2, 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 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 herewith filing a proposed rule change to part III, section 13 of the Code of Arbitration Procedure. Below is the text of the proposed rule change. Proposed new language is in italics:

* * * * *

Code of Arbitration Procedure

* * * * *

Part III—Uniform Code of Arbitration

* * * * *

Simplified Arbitration

Sec. 13 (a) through (e) Unchanged.

(f) The dispute, claim, or controversy shall be submitted to a single public arbitrator knowledgeable in the securities industry selected by the Director of Arbitration. Unless the public customer demands or consents to a hearing, or the arbitrator calls a hearing, the arbitrator shall decide the dispute, claim, or controversy solely upon the pleadings and evidence filed by the parties. If a hearing is necessary, such hearing shall be held as soon as practicable at a locale selected by the Director of Arbitration.

(g) through (l) Unchanged.

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the NASD included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The NASD has prepared summaries, set forth in Sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(a) The NASD is proposing to codify its existing policy of appointing a public arbitrator as the single arbitrator in small claims cases involving public customers. The current language of section 13(f) to part III of the Code provides that the single arbitrator shall be knowledgeable in the securities industry, which leaves open the possibility that an individual with close industry ties might be selected as the sole arbitrator. The proposed rule change would add the word "public" in front of the word "arbitrator" in section 13(f). This amendment would conform section 13(f) with section 19(a) of the Code, which requires the appointment of a single public arbitrator where the amount in controversy does not exceed $30,000.

(b) The NASD believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act [1] in that the proposed rule change will facilitate the arbitration process in the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The NASD does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

A. By order approve such proposed rule change, or

B. Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of 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 August 24, 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. 92–18278 Filed 7–31–92; 8:45 am]

BILLING CODE 8010–01–M

[1] 15 U.S.C. 78*o*–3(b)(6).

DEPARTMENT OF TRANSPORTATION

Aviation Proceedings; Agreements Filed During the Week Ended July 24, 1992

The following Agreements were filed with the Department of Transportation under the provisions of 49 U.S.C. 412 and 414. Answers may be filed within 21 days of date of filing.

Docket Number: 48259.

Date filed: July 20, 1992.

Parties: Members of the International Air Transport Association.

Subject: PAC/Reso/375 dated July 8, 1992, Finally Adopted Resolutions R–1 To R–28, PAC/Meet/119 dated July 8, 1992—Minutes.

Proposed Effective Date: October 1, 1992.

Docket Number: 48260.

Date filed: July 20, 1992.

Parties: Members of the International Air Transport Association.

Subject: TC23 Reso/P 0524 dated July 10, 1992, Europe-Southeast Asia Expedited Resos, R–1–045b, R–2–055b, R–3–065b.

Proposed Effective Date: October 1, 1992.

Docket Number: 48261.

Date filed: July 20, 1992.

Parties: Members of the International Air Transport Association.

Subject: TC23 MV/P 0184 dated May 6, 1992, Mail Vote 566—(Europe-Southeast Asia Fares) R–1 To R–3, TC23 MV/P 0186 dated June 22, 1992—Amendments, R–1–049B, R–2–059B, R–3–069B.

Proposed Effective Date: October 1, 1992.

Docket Number: 48262.

Date filed: July 20, 1992.

Parties: Members of the International Air Transport Association.

Subject: TC12 Reso/P 1431 dated June 16, 1992, TC12 Mid Atlantic-Middle East Resos R–1 to R–9, TC12 Meet/P 0504 dated July 7, 1992—Minutes, TC12 Fares 0385 dated July 10, 1992—Fares Tables.

Proposed Effective Date: October 1, 1992.

Docket Number: 48263.

Date filed: July 20, 1992.

Parties: Members of the International Air Transport Association.

Subject: TC2 Reso/P 1262 dated July 10, 1992, Within Europe Expedited Resos, R–1 To R–26.

Proposed Effective Date: September 1, 1992.

Docket Number: 48264.

Date filed: July 22, 1992.

Parties: Members of the International Air Transport Association.

Subject: TC3 Reso/P 0527 dated July 17, 1992, Europe-Japan/Korea Expedited Resos, R–1 To R–41.

Proposed Effective Date: September 1/November 1, 1992.

Phyllis T. Kaylor,

Chief, Documentary Services Division.

[FR Doc. 92–18304 Filed 7–31–92; 8:45 am]

BILLING CODE 4910–62–M

Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q During the Week Ended July 24, 1992

The following Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits were filed under subpart Q of the Department of Transportation's Procedural Regulations (See 14 CFR 302.1701 *et. seq.*). The due date for Answers, Conforming Applications, or Motions to Modify Scope are set forth below for each application. Following the Answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Docket Number: 48265.

Date filed: July 22, 1992.

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: August 19, 1992.

Description: Application of LTE International Airways, S.A., pursuant to section 402 of the Act and subpart Q of the Regulations, applies for a foreign air carrier permit for authority to engage in charter transportation between any point or points in Spain and any point or points in the United States.

Docket Number: 48270.

Date filed: July 24, 1992.

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: August 21, 1992.

Description: Application of Tower Air, Inc., pursuant to section 401 of the Act and subpart Q of the Act, requests certificate authority to operate scheduled combination service between points in the United States, on the one hand, and points in Egypt, on the other hand, via intermediate points including Tel Aviv, Israel.

Docket Number: 48272.

Date filed: July 24, 1992.

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: August 21, 1992.

Description: Application of Tower Air, Inc., pursuant to section 401 of the Act and subpart Q of the Regulations, applies for a Certificate of Public Convenience and Necessity for authority to operate scheduled property and mail service between points in the United States and Hong Kong.

Docket Number: 45723.

Date filed: July 22, 1992.

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: August 19, 1992.

Description: Application of Transportes Aereos Ejecutivos, S.A. de C.V., pursuant to section 402 of the Act and subpart Q of the Regulations requests an amendment of its foreign air carrier permit to authorize it to engage in daily scheduled air transportation of persons, property and mail on the scheduled routes: (1) Zacatecas, Mexico, on the one hand, and Ontario, California, on the other hand; and (2) Leon (El Bajio), Mexico, on the one hand, and Laredo, Texas on the other hand, using large aircraft.

Docket Number: 48008.

Date filed: July 24, 1992.

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: July 31, 1992.

Description: Amendment to the Application of United Air Lines, Inc., pursuant to Orders 92–6–44, and 92–7–14, to authorize service between a point or points in the United States and a point or points in Colombia. Section 3 of United's Application is amended, subject to conditions.

Phyllis T. Kaylor,

Chief, Documentary Services Division.

[FR Doc. 92–18305 Filed 7–31–92; 8:45 am]

BILLING CODE 4910–62–M

Federal Highway Administration

Environmental Impact Statement: Dodge and Steele Counties, MN

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of Intent (NOI).

SUMMARY: The FHWA is issuing this notice to advise the public that a Tier I environmental impact statement (EIS) will be prepared for a proposed highway project in Crow Wing County, Minnesota. The Tier I EIS includes the analysis needed for a location decision.

FOR FURTHER INFORMATION CONTACT: Alan J. Friesen, Program Operations Engineer, Federal Highway Administration, Suite 490 Metro Square Building, 7th Place and Robert Street, St. Paul, MN 55101, Telephone: (612) 290–3236.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Minnesota Department of Transportation, will prepare a Tier I EIS on a proposal to relocate MN Trunk Highway 371 (TH 371) in Crow Wing County, Minnesota. The proposed improvement would involve the construction of approximately five miles of roadway on new alignment from 1.5 miles south of Barrows, Minnesota to the existing intersection of TH 210 and TH 371 in Baxter, Minnesota.

Improvements to the corridor are considered necessary to provide for the existing and projected traffic demand. Also, included in this proposal is a new crossing over the Mississippi River. The Scoping Study will analyze eight alternative alignments and six river crossings.

The following public agencies have already responded with written comments: Minnesota Pollution Control Agency, Minnesota Department of Natural Resources, U.S. Environmental Protection Agency, U.S. Fish and Wildlife Service, and Mississippi Headwaters Board.

To ensure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to the FHWA at the address provided above.

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

Issued on: July 22, 1992.

Alan J. Friesen,

Program Operations Engineer FHWA Minnesota Division St. Paul, Minnesota.

[FR Doc. 92–18268 Filed 7–31–92; 8:45 am]

BILLING CODE 4910–22–M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

Dated: July 28, 1992.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 3171 Treasury Annex, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

Internal Revenue Service

OMB Number: 1545–1120.

Regulation ID Number: CO–69–87 Final and CO–68–87 Final.

Type of Review: Extension.

Title: Final Regulations Under Sections 382 and 383 of the Internal Revenue Code of 1986; Pre-Change Attributes.

Description: The regulation requires recordkeeping by a corporation after it undergoes an "ownership change" under sections 382 and 383. Corporations required to report under these regulations include those with capital loss carryovers and excess credits.

Respondents: Businesses or other for-profit.

Estimated Number of Respondents/ Recordkeepers: 75,000.

Estimated Burden Hours Per Respondent/Recordkeeper: 18 minutes.

Frequency of Response: Annually.

Estimated Total Reporting/ Recordkeeping Burden: 247,500 hours.

Clearance Officer: Garrick Shear (202) 535–4297, Internal Revenue Service, room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224.

OMB Reviewer: Milo Sunderhauf, (202) 395–6880, Office of Management and Budget, room 3001, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 92–18290 Filed 7–31–92; 8:45 am]

BILLING CODE 4830–01–M

Office of Thrift Supervision

[AC–38; OTS No. 1623]

First Federal Savings and Loan Association of Lima, Lima, OH; Final Action; Approval of Conversion Application

Notice is hereby given that on July 8, 1992, the Office of the Chief Counsel, Office of Thrift Supervision, acting pursuant to delegated authority, approved the application of First Federal Savings and Loan Association of Lima, Lima, Ohio for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Information Services Division, Office of Thrift Supervision, 1776 G Street, NW., Washington, DC 20552, and the Office of Thrift Supervision, Central Regional Office, 111 East Wacker Drive, Suite 800, Chicago, Illinois 60601–4360.

Dated: July 28, 1992.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 92–18228 Filed 7–31–92; 8:45 am]

BILLING CODE 6720–01–M

[AC–37: OTS No. 6092]

Macomb Federal Savings Bank, St. Clair Shores, MI; Final Action; Approval of Conversion Application

Notice is hereby given that on June 30, 1992, the designee of the Chief Counsel, Office of Thrift Supervision, acting pursuant to the authority delegated to him, approved the application for Macomb Federal Savings Bank, St. Clair Shores, Michigan, for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Information Services Division, Office of Thrift Supervision, 1776 G Street, NW., Washington, DC 20552, and Office of Thrift Supervision, Indianapolis Area Office, 8250 Woodfield Crossing Blvd., Suite 305, Indianapolis, Indiana 46206.

Dated: July 28, 1992.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 92–18229 Filed 7–31–92; 8:45 am]

BILLING CODE 6720–01–M

[AC–39: OTS No. 7497]

Rock Savings Bank, S.A., Beloit, WI; Approval of Conversion Application

Notice is hereby given that on July 17, 1992, the Deputy Director for Washington Operations, Office of the Thrift Supervision, or his designee, acting pursuant to delegated authority, approved the application of Rock Savings Bank, S.A., Beloit, Wisconsin for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Information Services Division, Office of Thrift Supervision, 1776 G Street, NW., Washington, DC 20552, and the Central Regional Office, Office of Thirft Supervision, 111 East Wacker Drive, suite 800, Chicago, Illinois 60601–4360.

Dated: July 28, 1992.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 92–18230 Filed 7–31–92; 8:45 am]

BILLING CODE 6720–01–M

UNITED STATES TRADE REPRESENTATIVE

Intergovernmental Policy Advisory Committee Schedule

AGENCY: Office of the United States Trade Representative.

ACTION: Notice of Intergovernmental Policy Advisory Committee Meeting.

SUMMARY: The meeting will include a review and discussion of current issues which influence U.S. trade policy. Pursuant to section 2155(f)(2) of title 19 of the United States Code, I have determined that this meeting will be concerned with matters the disclosure of which would seriously compromise the Government's negotiating objectives or bargaining positions.

DATES: The meeting of the Intergovernmental Policy Advisory Committee is scheduled for August 4, 1992, from 1:30 p.m. to 4 p.m.

ADDRESSES: The meeting will be held at the Scanticon Conference Center and Hotel, 100 College Road, East, Princeton, New Jersey, 08540.

FOR FURTHER INFORMATION CONTACT: Mollie Shields, Director, Office of Private Sector Liaison, Office of the United States Trade Representative, Executive Office of the President.

Carla A. Hills,

United States Trade Representative.

[FR Doc. 92–18448 Filed 7–30–92; 1:49 pm]

BILLING CODE 3190–01–M

DEPARTMENT OF VETERANS AFFAIRS

Advisory Committee on Women Veterans; Meeting

The Department of Veterans Affairs gives notice under Public Law 92–463 that a meeting of the Advisory Committee on Women Veterans will be held October 27–29, 1992, at the Henley Park Hotel, 926 Massachusetts Avenue, NW., Washington, DC. The purpose of the Advisory Committee on Women Veterans is to advise the Secretary regarding the needs of women veterans with respect to health care, rehabilitation, compensation, outreach and other programs administered by the Department of Veterans Affairs, and the activities of the Department of Veterans Affairs designed to meet such needs. The Committee will make recommendations to the Secretary regarding such activities.

The session will convene on October 27 from 9 a.m.–4:30 p.m.; October 28 from 9 a.m.–4:30 p.m.; and October 29 from 9 a.m.–12 noon. All sessions will be open to the public up to the seating capacity of the room. Because this capacity is limited, it will be necessary for those wishing to attend to contact Mrs. Barbara Brandau, Committee Coordinator, Department of Veterans Affairs (phone 202/535–7571) prior to October 1, 1992.

Dated: July 27, 1992.

Diane H. Landis,

Committee Management Officer.

[FR Doc. 92–18311 Filed 7–31–92; 8:45 am]

BILLING CODE 8320–01–M

Sunshine Act Meetings

Federal Register
Vol. 57, No. 149
Monday, August 3, 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).

FEDERAL COMMUNICATIONS COMMISSION

FCC to Hold Open Commission Meeting, Wednesday, August 5, 1992

The Federal Communications Commission will hold an Open Meeting on the subjects listed below on Wednesday, August 5, 1992, which is scheduled to commence at 2:00 p.m., in Room 856, at 1919 M Street, NW., Washington, DC.

Item No., Bureau, and Subject

1—Office of Engineering and Technology—Title: Redevelopment of Spectrum to Encourage Innovation in the Use of New Telecommunications Technologies (ET Docket No. 92–9, RMs 7981 & 8004). Summary: The Commission will consider adoption of a *Further Notice of Proposed Rulemaking* concerning 2 GHz fixed microwave services.

2—Office of Engineering and Technology—Title: Amendment of Section 2.106 of the Commission's Rules to Allocate the 1610–1626.5 MHz and 2483.5–2500 MHz bands for the Mobile-Satellite Service (MSS) including Non-geostationary Satellites. (ET Docket No. 92–28, RMs 7771, 7773, 7805 & 7806, PPs 29–33). Summary: The Commission will consider adoption of a *Notice of Proposed Rulemaking and Tentative Decision* addressing allocation of the 1610–1626.5 MHz and 2483.5–2500 MHz bands for MSS use.

3—Private Radio—Title: Amendment of Part 90 of the Commission's Rules to Eliminate Separate Licensing of End Users of Specialized Mobile Radio Systems (PR Docket No. 92–79). Summary: The Commission will consider adoption of a *Report and Order*.

4—Common Carrier—Title: In re Application of Teleport Communications—New York for Transfer of Control of Stations WLU372, WLW316, and WLW317 in the Common Carrier Point-to-Point Microwave Radio Service from Merrill Lynch Group, Inc. to Cox Teleport, Inc. Summary: The Commission will consider adoption of a *Memorandum Opinion and Order* regarding an application to transfer control of a common carrier to a firm whose affiliate provides video programming services in the same area as the transferee.

This meeting may be continued the following work day to allow the Commission to complete appropriate action.

Additional information concerning this meeting may be obtained from Steve Svab, Office of Public Affairs, telephone number (202) 632–5050.

Issued: July 29, 1992.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 92–18387 Filed 7–30–92; 3:08 pm]

BILLING CODE 6712–01–M

FEDERAL COMMUNICATIONS COMMISSION

Additional Item to be Considered at Open Meeting, Wednesday, August 5th

The Federal Communications Commission will consider an additional item on the subject listed below at the Open Meeting scheduled for 2:00 p.m., Wednesday, August 5, 1992 at 1919 M Street, NW., Washington, DC.

Item No., Bureau, and Subject

5—Mass Media—Title: Revision of Radio Rules and Policies (MM Docket No. 91–140). Summary: The Commission will consider adoption of a Memorandum Opinion and Order on reconsideration of its decision to modify the broadcast radio ownership rules.

Additional information concerning this meeting may be obtained from Steve Svab, Office of Public Affairs, telephone number (202) 632–5050.

Issued: July 29, 1992.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 92–18388 Filed 7–30–92; 3:08 pm]

BILLING CODE 6712–01–M

FEDERAL ELECTION COMMISSION

DATE AND TIME: Wednesday, August 5, 1992, 10:00 a.m.

PLACE: 999 E Street, NW., Washington, DC. (Ninth Floor.)

STATUS: This Meeting Will Be Open to the Public.

ITEM TO BE DISCUSSED: Oral Presentation—Paul Simon for President Inc.

PERSON TO CONTACT FOR INFORMATION: Mr. Fred Eiland, Press Officer, Telephone: (202) 219–4155.

Delores Harris,

Administrative Assistant.

[FR Doc. 92–18401 Filed 7–30–92; 3:09 pm]

BILLING CODE 6715–01–M

DEPARTMENT OF JUSTICE

UNITED STATES PAROLE COMMISSION

Record of Vote of Meeting Closure

(Public Law 94–409) (5 U.S.C. Sec. 552b)

I, Carol Pavilack Getty, Chairman of the United States Parole Commission, presided at a meeting of said Commission which started at nine-thirty a.m. on Tuesday, July 28, 1992 at the Commission's Central Office, 5550 Friendship Boulevard, Chevy Chase, Maryland 20815. The meeting ended at or about twelve-thirty p.m. The purpose of the meeting was to decide sixteen appeals from National Commissioners' decisions pursuant to 28 C.F.R. Section 2.27. Five Commissioners were present, constituting a quorum when the vote to close the meeting was submitted.

Public announcement further describing the subject matter of the meeting and certifications of General Counsel that this meeting may be closed by vote of the Commissioners present were submitted to the Commissioners prior to the conduct of any other business. Upon motion duly made, seconded, and carried, the following Commissioners voted that the meeting be closed: Carol Pavilack Getty, Jasper Clay, Jr., Vincent Fechtel, Jr., Victor M.F. Reyes, and John R. Simpson.

In Witness Whereof, I make this official record of the vote taken to close this meeting and authorize this record to be made available to the public.

Dated: July 28, 1992.

Carol Pavilack Getty

Chairman, U.S. Parole Commission.

[FR Doc. 92–18742 Filed 7–30–92; 3:10 pm]

BILLING CODE 4410–01–M

NATIONAL SCIENCE BOARD

DATE AND TIME:

August 13, 1992, 4:15 p.m. Closed Session

August 14, 1992, 9:00 a.m. Closed Session

August 14, 1992, 10:15 a.m. Open Session

PLACE: National Science Foundation, 1800 G Street, NW, Rm. 540, Washington, DC 20550.

STATUS:

Part of this meeting will be open to the public

Part of this meeting will be closed to the public

MATTERS TO BE CONSIDERED:

Thursday, August 13—Closed Session: 4:15 p.m.—5:15 p.m.

4:15 p.m.—1994 Budget

Friday, August 14—Closed Session: 9:00 a.m.—10:15 a.m.
9:00a—Minutes of May and June 1992 Meetings
9:05a—1994 Budget
10:00a—Grants & Contracts (Drs. Baker and Powell)
Friday, August 14—Open Session 10:15 a.m.—Noon

Swearing In Ceremony

10:15a—Chairman's Report
10:25a—Minutes of June 1992 Meeting
10:30a—Director's Report
11:00a—Presentation on Electromagnetic Spectrum Management
11:45a—Other Business

Marta Cehelsky,

Executive Officer.

[FR Doc. 92-18746 Filed 7-30-92; 3:50 pm]

BILLING CODE 7555-01-M

Corrections

Federal Register
Vol. 57, No. 149
Monday, August 3, 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.

ACTION

Information Collection; Final Notice

Correction

In notice document 92-16968 beginning on page 32512 in the issue of Wednesday, July 22, 1992, on page 32515, in the first column, above **Program Accessibility: Suggestions for a Self-Evaluation**, insert "OMB No. 3001-0130".

BILLING CODE 1505-01-D

OFFICE OF MANAGEMENT AND BUDGET

Office of Federal Procurement Policy

4 CFR Ch. III

48 CFR Parts 9900, 9902, 9903, 9904

Cost Accounting Standards Board; Recodification of Cost Accounting Standards Board Rules and Regulations

Correction

In rule document 92-7992 beginning on page 14148 in the issue of Friday, April 17, 1992, make the following corrections:

1. On page 14148, in the first column, under **SUMMARY**, in the 7th line, "CFR parts 331" should read "4 CFR parts 331".

2. On the same page, in the 2d column, in the 3d paragraph, in the 17th line, "defect" should read "effect."

3. On page 14149, in the third column, in the last line, after "subcontractors" insert a comma.

4. On page 14150, in the first column, under "E. Public Comments," in the eighth line, after "professional" remove "and".

9903.201-1 [Corrected]

5. On page 14154, in the first column, in 9903.201-1(b)(12), in the sixth line, "Defence" was misspelled.

9903.201-4 [Corrected]

6. On page 14155, in the 3d column, in 9903.201-4, in paragraph (a)(1) of the contract clause, in the 10th line,"disclosed" was misspelled and in the 18th line,"Disclosed" was misspelled.

9903.202-1 [Corrected]

7. On page 14157, in the second column, in 9903.202-1(c), in the tenth line, after "only" insert "one".

8. On the same page, in the same column, in 9903.202-1(e), in the eighth line, "determines" was misspelled.

9903.307 [Corrected]

9. On page 14184, in the third column, in 9903.307, in the second line "Cost" was misspelled.

9904.401-63 [Corrected]

10. On page 14186, in the second column, the second section heading reading "9904.401-62" should read "9904.401-63".

9904.405-60 [Corrected]

11. On page 14194, in the lst column, in 9904.405-60(a), in the 21st line, "material," was misspelled.

12. On the same page, in the 2d column, in 9904.405-60(d), in the 12th line, "allocations)" was misspelled.

13. On the same page, in the 3d column, in 9904.405-60(e), in the 13th line, "indirect-expense" was misspelled.

9904.406-40 [Corrected]

14. On page 14195, in the first column, in 9904.406-40(b), in the fourth line, "expense" was misspelled.

9904.407-60 [Corrected]

15. On page 14198, in the second column, in 9904.407-60(f)(3), in the second line, "$10,500," should read "$18,500".

9904.408-60 [Corrected]

16. On page 14199, in the third column, in 9904.408-60(a)(2), in the seventh line, "Jone" should read "John".

17. On the same page, in the same column, in 9904.408-60(b), in the second line, after "A's" insert a comma.

18. On page 14200, in the 2d column, in the same section, in the table, the 16th line should read "Suspense to be written off in".

9904.409-50 [Corrected]

19. On page 14202, in the 2d column, in 9904.409-50(e)(4), in the 16th line, "this" should read "his".

9904.410-63 [Corrected]

20. On page 14207, in the third column, "9940.410-63" should read "9904.410-63".

9904.411-20 [Corrected]

21. On page 14209, in the second column, in 9904.411-20(a), in the ninth line, the second "of" should read "to".

9904.413-60 [Corrected]

22. On page 14216, in the third column, in 9904.413-60(b), in the table, under the heading "Asset valuation method", the "Total" column should read "$7,650.00".

23. On page 14217, in the 2d column, in the same section, in paragraph (c)(4), in the 12th line, "those" should read "these".

Appendix A to Section 9904.414 [Corrected]

24. On page 14221, in the first column, in the fourth full paragraph, the first five lines should read, "The net book value of facilities capital items in this column shall represent the average balances outstanding during the cost accounting period. This applies both to items that are subject o periodic depreciation or".

Appendix B to Section 9904.414 [Corrected]

25. On page 14222, paragraph (a) appearing above "Table VI" should appear below the table heading and before the text of the table.

26. On page 14223, the undesignated paragraph appearing above "Table IX" should appear below the table heading and before the text of the table.

27. On page 14223, paragraph (a) appearing at the bottom of the page should appear on page 14224 in "Table X" below the table heading and before the text of the table.

28. On page 14424, in Table X, in paragraph (b), in the second line, "form" should read "from".

9904.415-50 [Corrected]

29. On page 14232, in the first column, in 9904.415-50(e)(7)(ii), the second line should read "employees or based on a uniform .

9904.416-50 [Corrected]

30. On page 14233, in the third column, in 9904.415-50(a)(1), in the first line, "trusted" should read "trusteed".

BILLING CODE 1505-01-D

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

23 CFR Part 750

[FHWA Docket No. 92-22]

RIN 2125-AC99

Removal of Nonconforming Signs

Correction

In proposed rule document 92-16768 beginning on page 31470 in the issue of Thursday, July 16, 1992, on page 31470, in the second column, under **SUMMARY**, in the sixth line, "23 U.S.C. 132" should read "23 U.S.C. 131".

BILLING CODE 1505-01-D

federal register

Monday
August 3, 1992

Part II

Department of Education

Educational Research Grant Program: Improved Assessments of K-12 Student Performance

DEPARTMENT OF EDUCATION

Educational Research Grant Program: Improved Assessments of K–12 Student Performance

AGENCY: Department of Education.

ACTION: Notice of proposed priority for fiscal years 1993 and 1994.

SUMMARY: Under the Educational Research Grant Program the Secretary proposes a priority for fiscal years 1993 and 1994 for projects to support research and development of new or improved assessments of student performance in kindergarten through grade 12 (K–12). The Secretary takes this action to focus financial assistance on research and development leading to new or improved assessment methods and practices. This action is part of an overall strategy to assist State efforts that can improve student achievement through the use of new or improved assessments linked with challenging standards and instructional reforms.

DATES: Comments must be received on or before September 2, 1992.

ADDRESSES: All comments concerning this proposed priority should be addressed to Dr. Joseph Conaty, U.S. Department of Education, 555 New Jersey Avenue NW., room 610, Washington, DC 20208–5573.

FOR FURTHER INFORMATION CONTACT: Dr. Joseph Conaty. Telephone: (202) 219–2079. 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 Educational Research Grant Program, authorized under 20 U.S.C. 1221e, supports scientific inquiry designed to advance educational theory and practice. The results of scientific inquiry will help move the Nation towards the achievement of the National Education Goals. One of the six National Education Goals calls for students to leave grades four, eight, and twelve having demonstrated competency in challenging subject matter including English, mathematics, science, history, and geography. The President's AMERICA 2000 strategy for helping the Nation achieve the goals calls for the creation of world-class standards for student achievement and for a system of improved assessments tied to these standards. The Secretary believes this strategy should be expanded beyond the core subjects to include civics and the arts.

In its report of January 24, 1992, the National Council on Education Standards and Testing, a congressionally created group charged with investigating the desirability and feasibility of national standards and improved assessments, called for the development of these standards and the development of a first-rate system of assessments as urgently needed steps in reforming American education. Representatives of the President, the Secretary, and the Congress served as members of the council.

The council recommended a system of multiple assessments linked to the national standards that would have two major components: (1) Individual student assessments and (2) large-scale assessments of representative samples of students from which inferences about the quality of programs or educational systems could be made. The National Assessment of Educational Progress is an example of a large-scale assessment that is used to monitor educational systems.

This priority is directed primarily, although not exclusively, toward the first component of a system of multiple assessments: assessments of individual students, attending either public or private schools, that provide information to students, parents, and teachers about student progress toward achieving national standards. Unfortunately, existing assessments often fail to provide measures of student performance that are useful to parents, teachers, policy makers, and others interested in improving classroom practice and the performance of individual schools.

In order to assist with the development of high-quality assessments, the Secretary proposes to support research and development of a variety of new and improved assessments.

The feasibility of setting national standards and their effectiveness in encouraging State and local reform have been demonstrated by a number of national professional organizations. Recently, the National Council of Teachers of Mathematics developed national standards for what students should know and be able to do in mathematics. While there do not exist fully developed national standards for K–12 in English, science, history, geography, civics, and the arts, considerable work has been done by a variety of organizations toward development of these standards.

World-class standards that define what students should know and be able to do provide the foundation for systemic reform. State curriculum frameworks serve as the bridge between these standards and the classroom by providing guidelines for the content of the curriculum and for how that content should be organized and presented. They provide the guidelines for curriculum and course design at the district, school, and classroom levels. New or improved assessments of student performance would indicate how well students are doing relative to the standards and the curriculum frameworks.

Assessing what students in a State know and are able to do is a critical step in the process of ensuring that the State's students are prepared to meet world-class standards. Using information from research supported by the Department's Research and Development Center Program and other programs, States could develop student assessments that embody high standards and provide useful information to parents, teachers, schools, districts, and States. By proposing to support research and development of new or improved assessments, the Secretary seeks to enable more States to use student assessments to improve curriculum and classroom practice.

Under the proposed priority the Secretary proposes that States, or States in cooperation with other eligible applicants, may apply for funding to support the activities described in this notice. States must participate in the design, development, and demonstration of student assessments linked to challenging curriculum because States bear central responsibility in matters of education. States have the primary responsibility for coordinating efforts to raise general standards, disseminating curriculum frameworks, influencing new directions in teacher education and professional development, establishing appropriate criteria for teacher certification, and assessing student performance.

The legislative authority for the Educational Research Grant Programs expires at the end of fiscal year 1992. Congress is now considering reauthorization of this program. However, the Secretary is publishing this notice of proposed priority to demonstrate his strong support for research that would further the development of new assessments. The publication of the notice of final priorities will await the outcome of the reauthorization process.

The Secretary will announce the final priority in a notice in the **Federal Register.** The final priority will be determined by responses to this notice,

available funds, and other considerations of the Department. Funding of particular projects depends on the availability of funds, the nature of the final priority, and the quality of the applications received. The publication of this proposed priority does not preclude the Secretary from proposing additional priorities, nor does it limit the Secretary to funding only this priority, subject to meeting applicable rulemaking requirements.

Note: This notice of proposed priority does not solicit applications. A notice inviting applications under this competition will be published in the **Federal Register** concurrent with or following publication of the notice of final priority.

Priority

Under 34 CFR 75.105(c)(3) the Secretary proposes to give an absolute preference to applications that meet the following priority. The Secretary proposes to fund under this competition only applications that meet this absolute priority:

New or Improved Assessments of Kindergarten through Grade 12 Student Performance

This proposed priority will support projects by States, or States working in cooperation with other eligible applicants, that—

- Are appropriate for selected grade levels, particularly grades four, eight, and twelve;
- Will contribute to the development of K–12 assessments linked to challenging standards and curriculum frameworks;
- Document the activities described in paragraphs (a) through (d) in a manner that will allow others to use the research results; and
- Include research and development activities related to one or more of the following:

(a) New or improved assessments linked to high standards and challenging curriculum in English, mathematics, science, history, geography, civics, or the arts.

(b) New or improved assessment items or tasks that are sensitive to student differences and that are reliable, valid, and fair for all students.

(c) New or improved assessments that include recent assessment innovations, such as portfolios and open-ended projects.

(d) New or improved assessments that could be used in national assessments, such as the National Assessment of Educational Progress conducted by the National Center for Education Statistics.

Invitation To Comment

Interested persons are invited to submit comments and recommendations regarding the proposed priority.

All comments submitted in response to this notice will be available for public inspection, during and after the comment period, in room 610, 555 New Jersey Avenue NW., Washington, DC, between the hours of 8:30 a.m. and 4 p.m., Monday through Friday of each week except Federal holidays.

Applicable Program Regulations

34 CFR part 700.

Program Authority: 20 U.S.C. 1221e.

(Catalog of Federal Domestic Assistance Number 84.117, Educational Research Grant Program)

Dated: May 26, 1992.

Lamar Alexander,

Secretary of Education.

[FR Doc. 92–18238 Filed 7–31–92; 8:45 am]

BILLING CODE 4000–01–M

federal register

Monday
August 3, 1992

Part III

Department of Agriculture

Food Safety and Inspection Service

9 CFR Parts 303 and 381

Exemption of Pizzas Containing Meat or Poultry Product; Final Rule

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

9 CFR Parts 303 and 381

[Docket No. 91-041F]

RIN 0583-AB52

Exemption of Pizzas Containing Meat or Poultry Product

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule amends the Federal meat and poultry products inspection regulations to implement Public Law 102-237. This law amended the Federal Meat Inspection Act (FMIA) and the Poultry Products Inspection Act (PPIA) to exempt from Federal inspection the preparation of pizzas topped with inspected and passed, cooked or cured, ready-to-eat meat food or poultry product under certain terms and conditions. This final rule also clarifies that such products containing poultry products are subject to the adulteration and misbranding provisions of the PPIA. The Federal meat inspection regulations already specify that any articles produced at businesses or operations that are exempted from Federal inspection must comply with the adulteration and misbranding provisions of the FMIA.

EFFECTIVE DATE: August 3, 1992. The incorporation by reference of certain definitions and provisions in the Food and Drug Administration's Food Service Sanitation Manual listed in the regulations is approved by the Director of the Federal Register as of August 3, 1992.

FOR FURTHER INFORMATION CONTACT: Patrick Clerkin, Acting Assistant Deputy Administrator, Regulatory Programs, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250, (202) 720-5604.

SUPPLEMENTARY INFORMATION:

Executive Order 12291

The Agency has determined that this final rule is not a major rule under Executive Order 12291. It will 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 on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

In analyzing the effect of this final rule, the Agency focused primarily on the school lunch market because it believes this market, as opposed to other public or private nonprofit institutions, will be the most affected by this rule. The final rule is not expected to have any net impact on the total consumption of pizza. FSIS anticipates increased competition in the school lunch market through this rule by making an alternative product more available. Generally, frozen pizzas are purchased for the school lunch market. In 1991, the National School Lunch Program (NSLP) served over 4 billion meals. For analytical purposes, FSIS estimated that 20 percent of the meals are pizza. The school lunch pizzas are packaged as individual servings ranging from 5 to 6 ounces. The Agency's analysis used an average serving size of 5.3 ounces based on a sample of serving sizes. Using these data and assumptions, the NSLP served approximately 808 million servings of pizza or 267.6 million pounds of pizza in 1991. An estimated 78 percent or 208.7 million pounds of this product was meat-topped pizza. These estimates show that the NSLP market represents a substantial share of the frozen pizza market.

FSIS expects this rule will result in some shift in sales in the school lunch market from frozen to fresh pizzas. The eventual magnitude of the shift will be determined by price, student preference, and availability; i.e., not all schools will have access to the alternative product. Based on the Agency's analysis, the likely shift in sales is estimated to be in the $36 to $48 million range.

A secondary impact of the final rule will be an increase in the demand for cheese versus cheese alternate. Assuming that fresh pizzas will contain only cheese, the Agency's analysis estimates that the shift in sales will be accompanied by an increase in the demand for cheese of 3 million pounds.

Executive Order 12778

This final rule has been reviewed under Executive Order 12778, Civil Justice Reform. This rule will exempt from Federal inspection the preparation of pizzas topped with inspected and passed, cooked or cured, ready-to-eat meat food or poultry product under certain terms and conditions.

States and local jurisdictions are preempted under the Federal Meat Inspection Act (FMIA) and the Poultry Products Inspection Act (PPIA) from imposing requirements with respect to premises, facilities, and operations of federally inspected meat or poultry products, and any marking, labeling, packaging, or ingredient requirements on federally inspected meat or poultry products that are in addition to, or different than, those imposed under the FMIA or the PPIA. States and local jurisdictions may, however, exercise concurrent jurisdiction over meat and poultry products that are outside official establishments for the purpose of preventing the distribution of meat or poultry products that are misbranded or adulterated under the FMIA or PPIA. Under the FMIA and the PPIA, States that maintain meat and poultry inspection programs must impose requirements on State inspected products and establishments that are at least equal to those required under the FMIA or PPIA. These States may, however, impose more stringent requirements on such State inspected products and establishments.

If adopted, this rule will not have a retroactive effect. Prior to any judicial challenge to the provisions of this rule or the application of its provisions, all applicable administrative procedures must be exhausted. Those administrative procedures are set forth in the rules of practice governing procedures for the exemption of certain pizza operations at 9 CFR 303.1(e)(2) and 381.10(e)(2) under the FMIA and the PPIA, as amended by Public Law 102-237.

Effects on Small Entities

The Administrator, FSIS, has made a determination that this final rule will not have a significant economic impact on a substantial number of small entities. This final rule will principally impact two industries that produce and market pizza. The fresh pizza industry is composed of establishments that prepare fresh pizza for immediate consumption either as a delivery service or as an eat-in restaurant or pizzeria or both. Under existing regulations, these businesses cannot sell meat-topped pizzas to schools for resale to students without operating under Federal inspection. The other industry is the frozen pizza industry that is synonymous with the federally inspected meat and poultry establishments that produce and package frozen pizza. These establishments may also produce a nonfrozen, refrigerated product that is distributed to retail stores, but is not the same product as fresh pizza.

The final rule will ease regulatory requirements for certain segments of the pizza industry which will, in turn, provide a positive impact on the affected industry. Such businesses will

be exempt from continuous, daily inspection, thus eliminating any costs associated with complying with related inspection requirements. However, this final rule will require exempted businesses to comply with certain provisions in regard to the facilities and operations of such businesses. Certain other requirements will also apply to such exempted businesses in order to maintain public health protection.

Because of the diversity of facilities and operations between large and small entities, and the variances existing within each such category of entities, FSIS cannot precisely measure the costs imposed by this final rule upon entities opting to operate under this exemption. However, because of the wide acceptance of FDA's Food Service Sanitation Manual's underlying food safety principles and their implementation through existing State and local codes, FSIS believes the costs for individual pizza facilities should be minimal. Decisions by individual businesses on whether to operate under such an exemption will be based on their conclusions that the benefits will outweigh the implementation costs.

Implementation Date

This final rule is effective upon the date of publication because it is "a substantive rule which grants or recognizes an exemption or relieves a restriction" (5 U.S.C. 553(d)(1)). Therefore, this final rule is exempted from the Administrative Procedure Act's 30-day delayed effective date requirement.

Background

Inspection Required of Certain Operations

The Federal Meat Inspection Act (FMIA) (21 U.S.C. 601 *et seq.*) and Poultry Products Inspection Act (PPIA) (21 U.S.C. 451 *et seq.*) require, among other things, inspection of a broad spectrum of operations and facilities involved in the preparation and processing of food derived from livestock (i.e., cattle, sheep, swine, goats, horses, mules, or other equines) and poultry. The FMIA provides that meat and meat food products prepared for commerce in any slaughtering, meat-canning, salting, packing, rendering, or similar establishments must be prepared under Federal inspection unless the operations of the establishment are exempted (21 U.S.C. 603, 604, 606, 608, 610, and 623). The PPIA includes comparable inspection requirements for the processing of poultry products (21 U.S.C. 454, 455, 456, 458, and 459). Establishments preparing or processing product solely for distribution within a State may instead be subject to State inspection if the State develops and effectively enforces requirements that are at least equal to those under the FMIA or PPIA. Section 301(c) (1) and (3) of the FMIA (21 U.S.C. 661(c) (1) and (3)) and section 5(c) (1) and (3) of the PPIA (21 U.S.C. 454(c) (1) and (3)) provide, in relevant part, that the Secretary of Agriculture shall designate any State for Federal inspection (including organized territories) which does not have, or is not effectively enforcing, such requirements; and if a State is so designated, wholly intrastate operations also are subject to Federal inspection and other requirements of the FMIA and PPIA.

Pizza Operations Required To Be Under Inspection

Over the past several years, operators of pizza restaurants have attempted to increase their sales of pizza and meat topped pizzas to school lunch programs. This resulted in a higher level of public awareness of the requirement that some products produced for such sales be produced under Federal or State meat inspection. A restaurant chain proposed and FSIS approved the use of a "Sales Agency Agreement" whereby the restaurant chain could sell meat pizzas directly to students at the school without Federal meat inspection under the so-called "restaurant central kitchen" exemption to the statutory requirement of inspection. However, the National School Lunch Act (NSLA) prohibits a National School Lunch Program (NSLP) school from contracting with a food service company to provide a la carte food service unless the company agrees to offer free, reduced price, and paid reimbursable meals to all eligible students. A reimbursable meal must meet prescribed meal pattern requirements and, in this case, would include more than a slice of pizza. If the restaurant chain chose to function as a Food Service Management Company and offer complete meals, then meals served through such an operation could be eligible for reimbursement. Further, under the NSLP regulations, no foods may be sold in a lunch room in competition with the NSLP unless all of the income from the sale accrues to the benefit of the school food service, the school, or student organizations approved by the school. An option available to the restaurant chain was to have meat pizzas inspected and passed under the FMIA in order to sell meat pizzas to schools as a vendor, which in turn, would sell to the children. In this case, the pizza could be sold by the schools, either as part of a NSLP meal and could be claimed for reimbursement by the schools, or a la carte. Federal inspection of this kind is currently conducted at many facilities producing pizzas. However, because the restaurants' customary operations are exempt from Federal inspection under the FMIA, the facilities may not be designed to meet the Federal meat inspection standards.

Operators of pizza restaurants and operators of school food services continued to question why the preparation of pizzas using meat or poultry toppings, which were produced as cooked and ready-to-eat under inspection, by businesses which were already subject to local health inspection, should require an additional Federal inspection. However, meat or poultry pizzas are "meat food products" or "poultry products" under the FMIA and PPIA, and their preparation for consumers have traditionally been subject to Federal inspection unless prepared in an exempted establishment. As discussed above, preparation of meat and meat food products, or poultry or poultry products must be done under Federal or State inspection unless the operations of the preparing establishment are exempted from inspection requirements. Existing exemptions covering operations of pizza restaurants do not extend to their production of meat or poultry pizza for wholesale transactions.

FMIA/PPIA Amended

On December 13, 1991, Public Law 102–237 was adopted. This law, in part, amended section 23 of the FMIA (21 U.S.C. 623) and section 15 of the PPIA (21 U.S.C. 464) to require that the Secretary, through regulation, exempt pizzas containing meat or poultry ingredients from the inspection requirements of the Acts, under such terms and conditions as might be necessary to ensure food safety and protect public health, such as special handling procedures, if: (a) The meat food or poultry product components of the pizzas have been prepared, inspected, and passed in a cured or cooked form as ready-to-eat in compliance with the requirements of this Act; and (b) the pizzas are to be served in public or private nonprofit institutions. The law provides that the Secretary may withdraw or modify any exemptions when he or she determines such action is necessary to ensure food safety and to protect public health. The law further provides that such regulation be issued as final no later than August 1, 1992, and that prior to issuance as a

final rule, at least one public hearing be held to examine the public health and food safety issues raised by the exemptions.

The law creates an exemption for products limited to those conforming to provisions for the use of specific types of inspected toppings, and limited to such products when sold for service in public or private nonprofit institutions. This clearly limited exemption is to be further limited by "such terms and conditions as the Secretary shall prescribe * * * that may be necessary to ensure food safety and protect public health, such as special handling procedures." The latter terms and conditions must be appropriate to health and safety concerns associated with these specific products and their distribution.

Other Exempt Activities

In considering what terms and conditions were appropriate to any such pizza exemption, FSIS examined current exempt activity.

The FMIA and PPIA both include provisions for exemption from inspection requirements for specific operations of certain businesses. The applicability of each exemption is determined, among other things, by the product, the characteristics of the operations of the business, the consumer involved, and the amount of product. Special conditions for manufacturing facilities or labeling under each exemption, if any, are established by law and regulation. These exemptions are set forth in 9 CFR part 303 and 9 CFR part 381, subpart C.

The operations judged by the Agency to be most similar to the exempt pizza operations are those conducted under the "restaurant central kitchen" exemption. Restaurants can only prepare foods for sale to consumers at their restaurant, or, in the case of restaurant central kitchens, to consumers at satellite restaurants or vending machines under their ownership or operation. The restaurant central kitchen exemption at 9 CFR 303.1(d)(2)(iv)(*c*) and 9 CFR 381.10(d)(2)(iv)(*c*) provides product and handling limitations. These limitations include: (a) shipment of fully cooked, ready-to-eat products only; (b) no intervening transfer or storage of products between the processing establishment and the site where meals are served to consumers; and (c) transportation only by employees of the processing firm to its satellite restaurants. The adulteration and misbranding provisions of the PPIA and regulations, other than the official inspection legend, apply to the exempted articles prepared in retail stores, restaurants, and similar retail-type establishments. The adulteration and misbranding provisions of the FMIA and regulations, other than the official inspection legend, apply to all exempted meat articles.

The restaurant central kitchen exemption was structured to include more complex processing operations than anticipated under the pizza exemption. The restaurant central kitchen operations are conducted in a similar environment to that presumed in the pizza exemption. In fact, the restaurant central kitchen exemption could apply to some operations at pizza restaurants. Under that exemption, a pizza restaurant could prepare any meat or poultry product in a cooked and ready-to-eat form for transportation by its employees to another restaurant under the same ownership or control, for service to consumers at that site, without any intervening transfer or storage. A pizza restaurant could produce a wide range of meat and poultry products for that limited distribution. The operating characteristics, which necessarily differentiate activity under the pizza exemption from the restaurant central kitchen activity, are that the exemption will only apply to pizzas conforming to provisions for the use of specific types of inspected toppings, and that such products will be sold for service in public or private nonprofit institutions, and not just in their own restaurants. There are additional features of the restaurant central kitchen exemption that are not contradictory to the provisions of the authorizing legislation for the pizza exemption. These include the requirement that the products be cooked and ready-to-eat when they leave the restaurant central kitchen, and the prohibition on intervening transfer or storage before delivery and service to consumers. The former feature is a legislated requirement of the restaurant central kitchen exemption; the latter was established through regulation.

No prior approval from FSIS is required to operate in this or any other exempt status. Adhering to the limitations on operations and sales peculiar to this exemption establishes the exemption. The regulatory conditions of this exemption from inspection requirements were developed with a recognition that the conditions should fit into an overall scheme of government regulations at the Federal, State, and local level. Existing inspection or regulatory authority and standards, already imposed on businesses and individuals by Federal, State or local governments, should be given full weight in establishing further regulatory conditions, such as those now developed by FSIS to implement the exemption provisions mandated by Public Law 102–237. It is recognized that FSIS, through its Compliance Program, monitors the distribution of meat and poultry products in exempted facilities and other operations outside federally inspected establishments.

FSIS exercises authority to detain products which the Agency believes are adulterated or misbranded, whether the products (a) are produced under Federal inspection, (b) conform to an exemption from Federal inspection, or (c) are not produced under Federal inspection and do not conform to an exemption from Federal inspection. FSIS can also seek judicial seizure and condemnation of such products.

State and local officials also inspect handling of food products within their jurisdictions. Officials of the Retail Food Protection Branch, Center for Food Safety and Applied Nutrition, Food and Drug Administration, have advised FSIS that State and local governments have inspection and sanitation ordinances which substantially conform to the model food service sanitation ordinance contained in the Food Service Sanitation Manual, DHEW Publication No. (FDA) 78–2081.[1] The Food Service Sanitation Manual encourages the food and beverage industry to develop and maintain food service sanitation programs that are based on uniform, nationally accepted public health principles and standards. The manual sets forth provisions on food handling and preparation, employee health, sanitation of equipment and utensils, sanitary facilities and controls, construction and maintenance of physical facilities, operation of mobile food units or pushcarts, operation of temporary food service establishments, and compliance procedures.

Proposal

On May 22, 1992, FSIS published a proposed rule in the **Federal Register** to amend the Federal meat and poultry products inspection regulations to implement Public Law 102–237 (57 FR 21858). As previously discussed, this law, in part, amended the FMIA and PPIA to exempt from Federal inspection the preparation of pizzas topped with inspected and passed, cooked or cured, ready-to-eat meat food or poultry product under certain terms and conditions. FSIS proposed that to qualify for the exemption: (1) The pizzas would

[1] A copy of this manual is available for public review in the FSIS Hearing Clerk's Office.

have to be served in public or private nonprofit institutions; (2) the pizzas would be ready-to-eat (i.e., no further cooking or other preparation is needed, except that they may be reheated prior to serving if chilled during transportation); (3) the pizzas would have to be transported directly to the receiving institution by employees of the preparing firm, receiving institution, or a food service management company contracted to conduct food service at the public or private nonprofit institution; and (4) there would be no intervening transfer or storage of the pizzas.

The proposed rule incorporated by reference the definitions at chapter 1, 1–102, and the provisions of chapters 2 through 9, except section 4–208, part IV, of the Food and Drug Administration's Food Service Sanitation Manual. The proposed rule made conformance to these provisions a condition for businesses and operations claiming this exemption.

In addition, the proposed rule defined "private nonprofit institution" and provided provisions allowing the Administrator to withdraw or modify the exemption of certain pizza operations when he or she determines that such action is necessary to ensure food safety and public health.

Discussion of Comments

On June 9, 1992, FSIS, pursuant to Public Law 102–237, conducted a public hearing in Washington, DC, to provide an opportunity for examination of the public health and food safety issues raised by the granting of the exemption of pizzas containing meat or poultry product. In addition to the oral comments received at this public hearing, the Agency also received written comments concerning its proposal.

FSIS received 43 total comments in response to the proposed rule. The commenters included: Seven local school food authorities, a State level child nutrition director, four pizza restaurant chains (one also represented a national restaurant association), two pizza restaurant operators, six consultants to the food industry who commented at the request of a national pizza restaurant chain (these included a former head of the Center for Food Safety and Applied Nutrition at FDA and three former heads of State food regulatory agencies), four frozen food businesses, a State association of meat food processors, a regional and seven national associations of frozen food and/or meat food product manufacturers, two consultants to the food industry who commented at the request of a national association of frozen food manufacturers (including one former Federal inspection official), two national consumer interest groups, two State level consumer interest groups, a food broker, a U.S. Congressman, a union official representing Federal meat and poultry inspectors, and a Federal agency. Commenters, among other things, addressed the general regulatory framework, pizza safety, the proposed provisions of the rule, and the small business impact.

1. General Regulatory Framework

Four commenters offered support for the FSIS proposed regulatory provisions in their totality. These commenters included a former head of FDA's Center for Food Safety and Applied Nutrition and a consultant to the food industry, both of whom commented at the request of a national pizza restaurant chain. They characterized FSIS's proposed rule as "reasonable and appropriate," and as providing "ample protection for the public," respectively. One pizza restaurant operator offered general support for the regulatory proposal. The U.S. Congressman who sponsored Public Law 102–237 stated, at the public hearing and in written comments, that the rule reflected the intent of Congress. Additionally, one commenter, a national association for the meat industry, stated that the proposal was reasonable in that it narrowly drew the exemption.

Other commenters addressed broader issues than the specific elements of the proposed rule. Some questioned whether any exemption from inspection requirements should be granted. A national consumer interest group suggested that no exemption should be granted until a congressionally mandated study of evaluation criteria for exemptions is completed. The food inspectors' union official stated that some form of daily inspection should be retained. A State association of meat food manufacturers and a national consumer interest group expressed the concern that this regulatory establishment of the exemption would set a precedent for exemptions of other meat and poultry products.

FSIS believes that the congressional intent was clear that this exemption must be implemented before completion of the cited exemption study. Congress established an August 1, 1992 deadline for the publication of a final rule implementing this particular exemption. The legislated due date for the study is not until December, 1993. FSIS does not consider any program of daily inspection to have been envisioned by Congress, and further believes that it would be excluded by the clear language of the amendment. Additionally, the Agency does not consider this exemption to be a precedent for other product exemptions. Congress clearly intended this to be a limited exemption.

Some commenters focused on the impact that this exemption would have on competition for school lunch sales of pizza. One consultant to the food industry, commenting at the request of a pizza restaurant chain, concluded in his analysis of the relative safety of pizza as a food, that the issue was not one of food safety but of whether fresh pizza would be allowed to compete with frozen pizza. One frozen food manufacturer and one national association of frozen food manufacturers stated that this exemption creates an unfair competitive situation in that operating costs are higher for businesses operating under Federal inspection. A congressman joined the latter commenters in asserting that the exemption should apply to frozen, as well as fresh, pizza.

FSIS believes that Congress fully intended to open the school lunch market to non-federally inspected producers of meat-topped pizza under certain conditions. Any manufacturers, including manufacturers of frozen pizza, who are willing to operate within the limits of the exemption can compete on the same basis.

Some commenters identified characteristics of a regulatory scheme they either wanted or did not want, without limiting their comments to the proposed rule. For example, five local school food authorities commented that State and local health inspections of meat-topped pizza preparation and service were adequate, and that a duplicate inspection of schools and restaurants by the Federal government was unnecessary and could be costly to schools and restaurants. One pizza restaurant wanted a simple, workable, and easy to understand final rule, without creating a bureaucracy of unnecessary inspections and reports. Another pizza chain official, also representing the views of a national restaurant association, stated that State and local authorities and regulations are sufficient, and that there is no need to add to the level of inspection at the local level. This commenter asserted that further inspections would be redundant, expensive, and burdensome, especially for small businesses. All restaurant chain commenters preferred that no standard be established beyond adhering to State and local laws and ordinances.

Other commenters took an opposing viewpoint. They suggested a comprehensive regime of registration, prior inspection, approval, and periodic Federal review. Some suggested that the Federal reviews be as often as quarterly. Two frozen food manufacturers suggested registration of exempt businesses and pre-operational review of their facilities. Two national consumer interest groups, two State level consumer interest groups, three national and one regional association of frozen food or meat processors, and two consultants to the food industry, commenting at the request of one of the national frozen food associations, suggested that FSIS implement a system of applications for exempt businesses, prior Federal inspection of facilities, and periodic Federal inspection. Two of the commenters suggested that FSIS require the exempt operators to register as meat or poultry handlers under 9 CFR 320.5. The union representing Federal meat and poultry inspectors suggested that there be a system of application for exemption, grant of exemption, and some form of daily inspection. Several of these commenters suggested that the FSIS proposal inappropriately relied on State and local food regulatory agencies to review these operations. One commenter suggested that State and local regulatory agencies might be unwilling to review the exempt operations. Another commenter stated that FSIS failed to adequately monitor businesses operating under other exemptions from inspection requirements. One commenter, a former Federal meat inspection official, stated that FSIS had available manpower to make the reviews cited. All of these commenters sought some system of Federal review and supervision of exempt businesses, citing a need for FSIS to know what businesses were operating under the exemption in order to monitor them. The consumer interest groups concluded that FSIS's proposed rule would have no positive public health consequences. These consumer interest groups and two others had submitted to FSIS a citizens' petition for rulemaking that would have established a regulatory framework requiring exempt operations to meet, at a minimum, all requirements of Federal meat and poultry regulations, excepting the provisions for daily inspection. One national association of frozen food manufacturers advocated the same regulatory approach.

FSIS concludes that this exemption should fit the general model of exemptions from inspection requirements. That is, that no prior approval to operate under an exempt status is required. Adhering to the limitations on operations and sales and to the standards articulated in the rule will establish the exemption. FSIS also concludes that it will not perform routine inspections of the facilities and exempt operations of these businesses, which would be redundant to inspections carried out by State and local food regulatory agencies. Also, contrary to comments by a former Federal meat inspection official, FSIS concludes that it does not have sufficient resources available to conduct such reviews and inspections. FSIS and State meat and poultry inspection programs in nondesignated States do monitor meat and poultry products in both intrastate and interstate commerce. They routinely determine if products in such commerce are inspected or conform to some exemption from inspection requirements. Both the States and FSIS exercise authority to detain products believed to be adulterated or misbranded and to seek seizure and condemnation of such products. FSIS also concludes that a Federal registration of these exempt businesses would not serve a practical purpose. These businesses are already required under State or local ordinances to have permits or licenses from the State or local food regulatory agency. Further, FSIS believes that because the Federal role with respect to inspection-exempted manufacturers focuses on monitoring of the exempted products in commerce, rather than on inspectional activities, no registration requirement is established. Finally, FSIS does not consider conformance to all the features of its meat and poultry regulations to be necessary to ensuring food safety and protecting public health for the specifically limited products and commerce covered by this exemption.

Some commenters stated that the Agency's proposed rule was deficient in that it did not establish recordkeeping requirements in the same manner as the restaurant central kitchen exemption regulations do. Three national associations of frozen food or meat food products manufacturers and one frozen food manufacturer stated that a lack of records of meat purchases and sales would hamper FSIS' regulatory review and actions.

FSIS concludes that the recordkeeping requirements at 9 CFR 320.1 through 9 CFR 320.4 apply to these inspection-exempted operations. The recordkeeping requirements for restaurant central kitchens were expressly stated in the regulations because their records pertain to internal transactions of the inspection-exempt operator which would not normally be subject to recordkeeping requirements. Because the transactions under this exemption involve a sale to a second party, the recordkeeping provisions apply.

2. Pizza Safety

Two national associations of frozen food processors, a consultant to the food industry commenting at the request of one of those associations, a national restaurant chain, two consultants to the food industry commenting at the request of that restaurant chain, and a national consumer interest group commented on the Center for Disease Control's (CDC) data on outbreaks of food borne illness in which pizza was implicated as a possible source. Each referenced the fact that CDC had identified 26 reports of illnesses between 1973 and 1988, 21 of which identified restaurants as the food source.

Due to the paucity of the data reported and the speculative character of the comments, FSIS did not find the reported CDC data or the comments offered to be very useful in drawing conclusions about the relative safety of pizza.

Three restaurant chains, five consultants to the food industry commenting at the request of one restaurant chain, two local school food authorities, a national association of frozen food manufacturers, and a consultant to the food industry commenting at the request of that association, offered detailed comments of their experience with pizza service or detailed information on risks associated with pizza products and their production. One restaurant chain reported that over the past four years, with current annual sales exceeding $240 million, it was unaware of any documented cases in which consumption of its pizza products had resulted in serious illness. Another restaurant chain reported that it has been selling pizza to schools since 1988, with current sales of approximately 1670 pizzas weekly, and that it has had no reported incidences of illness. This restaurant chain reported temperature data for its products. Its products are cooked at 560° to 580 °F for 7 minutes, maintained at 190 °F when out of the oven, transported at 160 °F, and served at 140°–145 °F. A third restaurant chain reported that it has provided 65 million servings of pizza in schools since 1989, with no reported incidence of illness. This restaurant chain also provided test data on the transport pouch that the restaurant is currently using. For five pizza types, out of oven temperatures

ranged from 175°–187 °F. After 30 minutes in the pouch, the temperature range for those products was 153°–161 °F. One commenter, the former director of FDA's Center for Food Safety and Applied Nutrition, commenting at the request of a restaurant chain, characterized pizza as a very safe product, due to the high temperature used in cooking. Two former heads of State food regulatory agencies, commenting at the request of a restaurant chain, citing their 16 and 20 year tenures in those positions, reported that there were no records of health related problems associated with fresh baked pizzas in their jurisdictions during their tenures. One reported that her survey of regulatory chiefs throughout New England did not yield any reports of significant food safety problems associated with the consumption of pizza; One local school food authority commented that pizza for its 43 thousand student system is purchased on a bid specification, which requires that the temperature at delivery be above 150 °F and that delivery be made 5 to 8 minutes before service. Another local school food authority with a student population of 30 thousand, commented that 522 pizzas, 4100 servings, are delivered daily to the schools 10 minutes before service. The pizzas are held at 180 °F. Deliveries are made from a dozen servicing restaurants and the schools have experienced no health-related or food safety problems with the pizza. Two consultants to the food industry commenting at the request of one restaurant chain, and a consultant to the food industry commenting at the request of a national frozen food manufacturers' association, offered detailed analyses of microbiological and related food safety concerns for meat-topped pizza. These experts agreed that the food safety strength of pizza is cooking at high temperatures that would be expected to inactivate vegetative cells of pathogenic microorganisms that contaminate toppings and ingredients. These experts also agreed that the greatest risk to food safety is post-baking contamination of the product. The primary difference in their approaches is that the consultant to the national association of frozen food manufacturers did not believe that restaurants would follow good manufacturing practices or develop proper procedures or practices for safe food production and handling.

FSIS found these comments useful in evaluating comments on the specific provisions of the proposal.

3. Proposed Provisions

A. Defining "Ready-To-Eat" Toppings

Comments

Six commenters directly addressed this provision. Two State level consumer interest groups supported the FSIS proposal because it limited further processing which might cause cross contamination of product. One national association for the meat industry supported the provision in tandem with the provision defining "ready-to-eat" pizza in that the provisions narrowly constructed the exemption. One national association of frozen food manufacturers and two consultants to the food industry commenting at their request also addressed this provision. The association rejected the provision stating that there was no effective enforcement mechanism to ensure that exempt businesses complied with the provision. One of the two consultants stated that while the provision helped, it did not go far enough since other regulatory provisions could not ensure the toppings would be handled in a sanitary manner. The other consultant stated that the regulation could not ensure that such toppings would not be mishandled, for example, frozen toppings might be applied without proper thawing. The consultant also pointed out that since the previously inspected toppings are not produced to a microbiological standard, there is a risk that the toppings could contaminate the product.

FSIS considers the provisions for food handling addressed later in this analysis to be sufficient from a regulatory standpoint to satisfy the concerns expressed regarding mishandling of product. FSIS also believes the condition and integrity of inspected toppings to be adequately controlled by its inspection program. The provision which defines "ready-to-eat" toppings will be adopted as proposed.

B. Defining "Ready-To-Eat" Pizza

Nine commenters directly addressed this provision. Two supported it as proposed. One national association for the meat industry supported it in tandem with the previous provision, as discussed. One consultant to the food industry, a microbiologist commenting at the request of a national pizza restaurant chain, noted that thermal treatment of microbiological pathogens, which is presumed under this proposed definition, made the risk associated with this product negligible.

Seven commenters did not endorse the provision. One frozen food manufacturer commented that this definition was not required by the law and that the reference to "chilled" raised questions about the form of transportation that would be used, the length of time the product might be held before use, and the inherent difference between chilled pizzas and frozen pizzas. One regional and two national associations of frozen food and meat processors, one consultant to the food industry, commenting at the request of one of those national associations, and two State level consumer interest groups also questioned the provision's reference to the chilling of the cooked pizza product. These commenters suggested that chilling posed a risk to food safety. The consultant to the food industry, citing a lack of adequate refrigeration equipment in the restaurant trade, suggested that chilling be prohibited. The regional association of meat food processors commented that permitting the refrigeration and chilling of product would make operations more like food processing operations than like food service operations. As such, they felt that traditional meat inspection styled standards and regulations would be more appropriate than those set forth in the FDA Food Service Sanitation Manual.

FSIS agrees that the definition of ready-to-eat pizza is not required by the law. However, it is an essential element of the Agency's proposal. In fact, FSIS considers this definition to be a linch pin to the regulatory framework proposed. The provision that the product require no further preparation at the stage that it is shipped ensures that the product will have received precisely the type of thermal treatment cited by one commenter. While chilling of the product does introduce an additional procedure, FSIS considers the fully prepared and cooked pizza to be essentially a safe product. Based on the descriptions of pizza service offered by commenters on this rule, we do not anticipate that many would opt to refrigerate or chill the cooked product. Where that option is elected, adherence to the cold storage and related provisions of the regulation would ensure the continued safety of the product. Businesses, such as restaurants, whose refrigeration equipment would not enable them to comply with the cold storage provisions would be limited to the shipment of product conforming to the hot storage provisions of the regulation. The provision which defines "ready-to-eat" pizza will be adopted as proposed.

C. Requires Direct Delivery To Institutions by Employees

Only one commenter addressed this provision directly. The commenter, a

national association of meat processors, suggested that the reference in the proposed rule to employees of food service management companies transporting pizzas to the receiving institution, raises the concern of public or private nonprofit institutions contracting with for-profit providers to conduct such services. The commenter questioned whether this type of arrangement would be contrary to the law.

FSIS considers the exemption to permit such arrangements. Many school food authorities utilize the services of food service management companies. The provision will be adopted as proposed.

D. Adherence To Definitions and Provisions of FDA's Food Service Sanitation Manual

Seventeen commenters, who were against adopting these provisions, cited the fact that nine States have not adopted this model code. These commenters included: three national restaurant chains, two frozen food manufacturers, a regional and six national associations of frozen food and/or meat processors, two consultants to the food industry commenting at the request of one of those national associations, two national consumer interest groups, and a Federal agency. The commenters believe that conflict or confusion could result because of variable standards. One consultant detailed some variances in State codes, such as one State not requiring that the joint between the wall and floor be sealed, and another State not requiring protective shields on lights.

Six local school food authorities stated that there should be no duplicate system of Federal inspection or variable standards from those applied by State or local food regulatory agencies. These commenters might be inferred to be in favor of this provision to the extent that these standards conform to standards of individual State and local agencies. Conversely, they could be inferred to be against the provision to the extent that this provision does not conform to individual State or local standards.

Two consultants to the food industry, commenting at the request of a national restaurant chain, both of whom formerly headed State food regulatory agencies in States which had not adopted the FDA's model provisions in their codes, characterized their codes and regulations as "pretty similar," in one case; and as being substantially equivalent, with more stringent sanitation provisions in place, and with administrative regulations on hot and cold storage conforming with the FDA model, in the other.

FSIS considers the significant features and underlying food safety principles of the FDA's Food Service Sanitation Manual to be in significant conformance with the ordinances and administrative regulations enforced by the nation's State and local food regulatory agencies. FSIS does not believe that adoption of its definitions and provisions will cause conflict and confusion.

One commenter, a consultant to the food industry, commenting at the request of a national restaurant chain, noted that many of the Food Service Sanitation Manual provisions proposed by FSIS did not apply to the preparation of meat-topped pizza, while others applied only marginally. Specifically, the commenter identified requirements for handling raw fruit, raw vegetables, nondairy products, and dispensing milk, cream, condiments and ice. The commenter also characterized the use of a 140 °F hot holding requirement for pizza as being without scientific reason.

FSIS concurs that some of the items proposed to be incorporated by reference do not apply to the preparation of pizza. Upon evaluation of the definitions and provisions contained in the proposal, FSIS has decided not to incorporate by reference all of the cited chapters. Rather, FSIS will incorporate by reference those definitions and provisions which have relevance to the preparation of pizza or to the environments in which it is prepared or held. The following definitions and provisions are not incorporated by reference in the final rule: 1–102(z), 2–102 (a) and (b), 2–302(d), 2–403(a), 2–403(c), 2–404, 2–405, 2–407, 2–502 through 2–506, 2–508, 2–509, 4–105, 4–201(c), 5–101(a), 5–202(c), 5–203, and 9–101 through 9–111. The balance of the proposed definitions and provisions are incorporated by reference, except for 5–103, 5–104, and 6–105. These provisions are now set forth in the body of the regulations as §§ 303.1(e)(3) and 381.10(e)(3) to ensure appropriate reference to current FDA regulations. FSIS did not delete provisions related to the handling of raw fruits and vegetables, believing they might be used as toppings on meat or poultry pizzas. The hot holding provision was also retained.

Fourteen commenters characterized the 1976 Food Service Sanitation Manual as "antiquated," or "outdated." Six commenters expressed a preference for the yet to be published "Unicode" for adoption in this rule. These commenters thought that the Unicode would be more up-to-date and should be adopted now or after it is published. Some suggested writing this rule so that the Unicode would have effect for this exemption on its final publication. One suggested that USDA's meat inspection regulations and standards should have effect until the Unicode is published.

Two commenters offered comprehensive critiques of the provisions of the FDA Food Service Sanitation Manual and the States' implementations of its provisions. They were a national association of frozen food manufacturers, and a consultant to the food industry commenting at the request of that national association. The former commented that the standards were not established for manufacturing operations, they included no effective controls over the risks of pizza manufacturing, they employed antiquated technologies, such as the use of bimetallic thermometers, they employed antiquated and dangerous cooling and holding requirements, and they failed to prevent food borne contaminants. The latter commenter reiterated those points and also cited concerns for consistency in application of standards and grading in State inspection systems. The commenter also suggested that under these standards a business with serious temperature abuse problems and handwashing problems could obtain a relatively high grade for compliance. The commenter concluded that the manual does not provide an adequate process control system and that it would be more appropriate to adopt a system based on hazard identification and controls (HACCP).

Several commenters recommended that USDA standards for custom exempt operators be used in lieu of this provision. They either directly stated the recommendation or endorsed a citizen's petition for rulemaking which included that as a feature of its regulatory framework. These commenters included a food broker, a regional and two national associations of frozen food and/or meat processors, two consultants to the food industry commenting at the request of one of those national associations, two national consumer interest groups, and two State level consumer interest groups. The citizens' petition, which was submitted by the two national consumer interest groups, and others, argued that in order to ensure food safety and protect public health, FSIS needed to apply, at a minimum, all standards articulated in the meat and poultry regulations of FSIS, excepting the requirement for daily inspection.

FSIS considers the wide acceptance of FDA's Food Service Sanitation Manual's

underlying food safety principles and their implementation through existing state and local codes to make a compelling case for adopting its standards. While the newer Unicode varies to a degree, it is based on the same food safety principles. Also, it has not been adopted or implemented. Adopting it, devising some new HACCP based system, or applying packing house standards for the purpose of implementing this exemption would create significant confusion and conflict. Also, FSIS submits that the prospective adoption of some future Unicode in this regulation would be contrary to the Administrative Procedure Act.

Three commenters, a national association of frozen food manufacturers, a consultant to the food industry commenting at the request of that national association, and a national consumer interest group, cited a 1975 General Accounting Office (GAO) report, titled "Federal Support For Restaurant Sanitation Found Largely Ineffective." Each highlighted GAO's projection that 90% of restaurants in tested metropolitan areas were in unsanitary condition. The same commenters also cited a 1986 FSIS report, titled, "The Oversight of Custom Exempt Activities." They highlighted a statement that FSIS reviews had shown that local health agency review of facilities had no more effect than chance on the sanitary conditions of the plant. Based on these reports, the commenters questioned whether restaurants were safe, and whether State and local standards and monitoring would ensure food safety. The consultant also pointed to FSIS' experience under the implementation of the Wholesome Meat Act. Under that Act, FSIS made assessments as to whether individual States' laws and implementation of meat inspection programs were at least "equal to" the Federal program. The commenter concluded that in some 25 States, which either did not or were deemed not to have established "equal to" programs, officials either would not or could not assume responsibilities for such programs when they had to meet uniform standards.

FSIS does not believe that the cited GAO report, which is based on data collected in the spring of 1974, can be relied on in assessing the efficacy of State and local programs for restaurant sanitation today. The FSIS report, as its name infers, relates not to food service facilities but to custom slaughter and processing facilities. As the preamble to the proposed rule discussed in great detail, operations of custom slaughter and processing are significantly different from food service operations. Facility, equipment, sanitation and operating standards, therefore, should be very different. That is why these elements are specifically addressed in regulations for custom exempt operations and are not addressed in regulations for retail and restaurant exempt operations. FSIS is finalizing its proposal to require adherence to definitions and provisions of FDA's Food Service Sanitation Manual, as amended and discussed above.

E. Withdrawal or Modification of Exemption

One commenter, a national association of frozen food manufacturers, was against this provision as proposed. Citing floor language from the House and Senate, it contended that Congress had intended that the exemption be withdrawn in cases where misbranding of product was demonstrated.

FSIS considers that the clear language of the law limits withdrawal or modification of the exemption to those cases where it is determined that such action is necessary to ensure food safety and to protect public health. Misbranding of product would not in itself, in all instances, warrant such a determination. The provision is adopted as proposed.

F. Adulteration and Misbranding

Ten commenters addressed this provision. These included two frozen food manufacturers, a State association of meat processors, a regional and four national associations of frozen food and/or meat processors, a consultant to the food industry, and a national consumer interest group.

One frozen food manufacturer, a regional and a national association of frozen food and/or meat processors, wanted the regulations to expressly state that the adulteration and misbranding provisions of the Act applied to these exempted operations.

As stated in the preamble to the proposed rule, the structure of the Federal meat inspection regulations is such that the current section 9 CFR 303.1(e) would apply to this exemption section. The applicability of the adulteration and misbranding provisions is clearly stated therein. The applicability of those provisions is expressly stated in the poultry regulations as was proposed.

One frozen food manufacturer, a regional association of meat processors and a consultant posed the question of how businesses claiming the exemption would become knowledgeable of their responsibilities under this provision.

FSIS considers this final rule to be constructive notice of businesses' responsibilities. Additionally, FSIS will make efforts to notify businesses of their responsibilities through trade associations and through food regulatory agencies.

A State association of meat processors and a national association of frozen food and/or meat processors questioned how this regulation would affect ingredient control and integrity, and whether the product would be subject to nutrition labeling requirements. One national consumer interest group also raised the nutrition labeling question.

Ingredient control is addressed at section 2–101 of the Food Service Sanitation Manual, which is incorporated in the FSIS final rule by reference. The applicability of nutrition labeling requirements to this product will be determined through that subject rulemaking.

Two national associations of frozen food manufacturers and/or meat processors, and a national consumer interest group stated that this provision should require prior label approval and prior approval of manufacturing processes. One characterized it as making labeling requirements consistent with those applied to inspected purveyors. FSIS does not consider the prior label approval requirements to apply to any inspection exempted operation or product.

One national association of frozen food manufacturers commented that it was opposed to this provision because it lacked an enforcement mechanism. FSIS considers enforcement of this provision to be subject to several overlapping jurisdictions, including its own Compliance Program. This provision is adopted as proposed.

G. Other Provisions

Commenters did not directly address the provisions relating to prohibiting intervening storage, prohibiting transfer of conveyance, or defining private nonprofit institutions. These provisions will be adopted as proposed.

4. Small Business Impact and Effect on the Economy

One school food authority suggested that the economic impact was underestimated. Also, comments from the Office of Chief Counsel for Advocacy, U.S. Small Business Administration (SBA), concluded that the proposed rule will have a significant positive economic impact on a substantial number of small entities and, therefore, the Agency was required to

conduct a regulatory flexibility analysis examining alternatives that would have further increased benefits to small businesses.

Analysis of the school food authority's comment showed that its conclusions were based on 100% of sales shifting to fresh pizza product. However, FSIS believes that such a situation would be unlikely. While FSIS agrees that school lunch pizzas represent a large market, the Agency has concluded that the rule will not have a significant positive economic impact on a substantial number of pizza operators. FSIS has estimated that the fresh pizza industry might capture up to 10 percent of the school lunch market within 4 to 5 years. Fresh and frozen pizzas have not historically competed in the same price range. The school food authority stated that its school district currently serves frozen pizzas at a cost of $.38 per serving and that fresh pizza would cost more, perhaps twice as much. Fresh cheese (or plain) pizzas are already available to the school lunch market, but have only an estimated one percent of the market.

The SBA comments appeared most concerned that FSIS did not consider alternatives to incorporation by reference of the FDA Food Service Sanitation Manual. The SBA suggested that pizza restaurants in States which have not adopted the FDA manual would be forbidden from selling pizza to schools. FSIS did consider alternatives. The preamble to the proposed rule discussed a range of requirements for different models of exemptions, such as custom exempt, retail, and central kitchens of restaurants. This full range of exemption possibilities was considered by FSIS in implementing this final rule. In deciding to propose referencing the FDA Food Service Sanitation Manual, the Agency weighed that decision against the alternative of not including any such reference, or of establishing criteria different from State or local food service sanitation regulatory norms. The final rule adopts the Agency's decision, based in response to comments, to include in regulation only those provisions of the FDA Food Service Sanitation Manual which directly affect the preparation of fresh pizza or to the environment in which it is prepared or held under safe and sanitary conditions. The only alternative considered which would entail significant costs to small entities would be that of establishing criteria different from food service sanitation norms. Forty-one States have adopted the FDA Food Service Sanitation Manual. As previously discussed, one other State's code and regulations have been characterized as being "pretty similar" and another as more stringent in the sanitation area. FSIS considers the significant features and underlying food safety principles of the FDA Food Service Sanitation Manual to be in significant conformance with the ordinances and administrative regulations enforced by the other State and local food regulatory agencies. FSIS has concluded that adoption of its definitions and provisions will not cause conflict or confusion and, therefore, will not exclude a substantial number of pizza operators.

Final Rule

In addition to revisions made to the proposed rule resulting from comments received, FSIS has reorganized proposed §§ 303.1(e) and 381.10(e).

For the reasons discussed in the preamble, FSIS is amending 9 CFR parts 303 and 381 of the Federal meat and poultry inspection regulations as follows:

List of Subjects

9 CFR Part 303

Incorporation by reference, Meat inspection.

9 CFR Part 381

Incorporation by reference, Poultry inspection.

PART 303—EXEMPTIONS

1. The authority citation for part 303 continues to read as follows:

Authority: 21 U.S.C. 601–695; 7 CFR 2.17, 2.55.

2. Section 303.1 is amended by redesignating paragraphs (e) through (g) as (f) through (h), respectively, and adding a new paragraph (e) to read as follows:

§ 303.1 Exemptions

* * * * *

(e) (1) The requirements of the Act and the regulations in this subchapter for inspection of the preparation of products do not apply to meat pizzas containing meat food product ingredients which were prepared, inspected, and passed in a cured or cooked form as ready-to-eat (i.e., no further cooking or other preparation is needed) in compliance with the requirements of the Act and these regulations; and the meat pizzas are to be served in public or private nonprofit institutions, provided that the meat pizzas are ready-to-eat (i.e., no further cooking or other preparation is needed, except that they may be reheated prior to serving if chilled during transportation), transported directly to the receiving institution by employees of the preparing firm, receiving institution, or a food service management company contracted to conduct food service at the public or private nonprofit institution, without intervening transfer or storage.

(2) The definitions at Chapter 1, 1–102, except 1–102(z) and the provisions of Chapters 2 through 8, except sections 2–102(a) and (b), 2–302(d), 2–403(a), 2–403(c), 2–404, 2–405, 2–407, 2–502 through 2–506, 2–508, 2–509, 4–105, 4–201(c), 4–208, 5–101(a), 5–103, 5–104, 5–202(c), 5–203, and 6–105, part IV, of the Food and Drug Administration's Food Service Sanitation Manual (1976 Recommendations), DHEW Publication No. (FDA) 78–2081, which is incorporated by reference, shall apply to the facilities and operations of businesses claiming this exemption. (These materials are incorporated as they exist on the date of approval. 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 purchased from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402. It is also available for inspection at the Office of the Federal Register Information Center, suite 700, 800 North Capitol Street, NW., Washington, DC, or the FSIS Hearing Clerk, room 3171, South Building, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250.)

(3) Facilities and operations of businesses claiming this exemption shall also conform to the following requirements:

(i) *Manual cleaning and sanitizing.* (A) For manual washing, rinsing and sanitizing of utensils and equipment, a sink with not fewer than three compartments shall be provided and used. Sink compartments shall be large enough to permit the accommodation of the equipment and utensils, and each compartment of the sink shall be supplied with hot and cold potable running water. Fixed equipment and utensils and equipment too large to be cleaned in sink compartments shall be washed manually or cleaned through pressure spray methods.

(B) Drain boards or easily movable dish tables of adequate size shall be provided for proper handling of soiled utensils prior to washing and for cleaned utensils following sanitizing and shall be located so as not to interfere with the proper use of the dishwashing facilities.

(C) Equipment and utensils shall be preflushed or prescraped and, when necessary, presoaked to remove gross food particles and soil.

(D) Except for fixed equipment and utensils too large to be cleaned in sink compartments, manual washing, rinsing and sanitizing shall be conducted in the following sequence:

(*1*) Sinks shall be cleaned prior to use.

(*2*) Equipment and utensils shall be thoroughly washed in the first compartment with a hot detergent solution that is kept clean.

(*3*) Equipment and utensils shall be rinsed free of detergent and abrasives with clean water in the second compartment.

(*4*) Equipment and utensils shall be sanitized in the third compartment according to one of the methods prescribed in paragraph (e)(3)(i)(E) (*1*) through (*4*) of this section.

(E) The food-contact surfaces of all equipment and utensils shall be sanitized by:

(*1*) Immersion for at least ½ minute in clean, hot water at a temperature of at least 170 °F; or

(*2*) Immersion for at least 1 minute in a clean solution containing at least 50 parts per million of available chlorine as a hypochlorite and at a temperature of at least 75 °F; or

(*3*) Immersion for at least 1 minute in a clean solution containing at least 12.5 parts per million of available iodine and having a pH not higher than 5.0 and at a temperature of at least 75 °F; or

(*4*) Immersion in a clean solution containing any other chemical sanitizing agent allowed under 21 CFR 178.1010 that will provide the equivalent bactericidal effect of a solution containing at least 50 parts per million of available chlorine as a hypochlorite at a temperature of at least 75 °F for 1 minute; or

(*5*) Treatment with steam free from materials or additives other than those specified in 21 CFR 173.310 in the case of equipment too large to sanitize by immersion, but in which steam can be confined; or

(*6*) Rinsing, spraying, or swabbing with a chemical sanitizing solution of at least twice the strength required for that particular sanitizing solution under paragraph (e)(3)(i)(E)(*4*) of this section in the case of equipment too large to sanitize by immersion.

(F) When hot water is used for sanitizing, the following facilities shall be provided and used:

(*1*) An integral heating device or fixture installed in, on, or under the sanitizing compartment of the sink capable of maintaining the water at a temperature of at least 170 °F; and

(*2*) A numerically scaled indicating thermometer, accurate to ±3 °F, convenient to the sink for frequent checks of water temperature; and

(*3*) Dish baskets of such size and design to permit complete immersion of the tableware, kitchenware, and equipment in the hot water.

(G) When chemicals are used for sanitization, they shall not have concentrations higher than the maximum permitted under 21 CFR 178.1010 and a test kit or other device that accurately measures the parts per million concentration of the solution shall be provided and used.

(ii) *Mechanical cleaning and sanitizing.* (A) Cleaning and sanitizing may be done by spray-type or immersion dishwashing machines or by any other type of machine or device if it is demonstrated that it thoroughly cleans and sanitizes equipment and utensils. These machines and devices shall be properly installed and maintained in good repair.

Machines and devices shall be operated in accordance with manufacturers' instructions, and utensils and equipment placed in the machine shall be exposed to all dishwashing cycles. Automatic detergent dispensers, wetting agent dispensers, and liquid sanitizer injectors, if any, shall be properly installed and maintained.

(B) The pressure of final rinse water supplied to spray-type dishwashing machines shall not be less than 15 nor more than 25 pounds per square inch measured in the water line immediately adjacent to the final rinse control valve. A ¼–inch IPS valve shall be provided immediately up stream from the final rinse control valve to permit checking the flow pressure of the final rinse water.

(C) Machine or water line mounted numerically scaled indicating thermometers, accurate to ±3 °F, shall be provided to indicate the temperature of the water in each tank of the machine and the temperature of the final rinse water as it enters the manifold.

(D) Rinse water tanks shall be protected by baffles, curtains, or other effective means to minimize the entry of wash water into the rinse water. Conveyors in dishwashing machines shall be accurately timed to assure proper exposure times in wash and rinse cycles in accordance with manufacturers' specifications attached to the machines.

(E) Drain boards shall be provided and be of adequate size for the proper handling of soiled utensils prior to washing and of cleaned utensils following sanitization and shall be so located and constructed as not to interfere with the proper use of the dishwashing facilities. This does not preclude the use of easily movable dish tables for the storage of soiled utensils or the use of easily movable dishtables for the storage of clean utensils following sanitization.

(F) Equipment and utensils shall be flushed or scraped and, when necessary, soaked to remove gross food particles and soil prior to being washed in a dishwashing machine unless a prewashcycle is a part of the dishwashing machine operation. Equipment and utensils shall be placed in racks, trays, or baskets, or on conveyors, in a way that food-contact surfaces are exposed to the unobstructed application of detergent wash and clean rinse waters and that permits free draining.

(G) Machines (single-tank, stationary-rack, door-type machines and spray-type glass washers) using chemicals for sanitization may be used: *Provided, That,*

(*1*) The temperature of the wash water shall not be less than 120 °F.

(*2*) The wash water shall be kept clean.

(*3*) Chemicals added for sanitization purposes shall be automatically dispensed.

(*4*) Utensils and equipment shall be exposed to the final chemical sanitizing rinse in accordance with manufacturers' specifications for time and concentration.

(*5*) The chemical sanitizing rinse water temperature shall be not less than 75 °F nor less than the temperature specified by the machine's manufacturer.

(*6*) Chemical sanitizers used shall meet the requirements of 21 CFR 178.1010.

(*7*) A test kit or other device that accurately measures the parts per million concentration of the solution shall be available and used.

(H) Machines using hot water for sanitizing may be used provided that wash water and pumped rinse water shall be kept clean and water shall be maintained at not less than the following temperatures:

(*1*) Single-tank, stationary-rack, dual-temperature machine:

Wash temperature	150 °F
Final rinse temperature	180 °F

(*2*) Single-tank, stationary-rack, single-temperature machine:

Wash temperature	165 °F
Final rinse temperature	165 °F

(*3*) Single-tank, conveyor machine:

Wash temperature	160 °F

Final rinse temperature.....180 °F

(4) Multitank, conveyor machine:

Wash temperature.....150 °F
Pumped rinse temperature.....160 °F
Final rinse temperature.....180 °F

(5) Single-tank, pot, pan, and utensil washer (either stationary or moving-rack):

Wash temperature.....140 °F
Final rinse temperature.....180 °F

(I) All dishwashing machines shall be thoroughly cleaned at least once a day or more often when necessary to maintain them in a satisfactory operating condition.

(iii) *Steam.* Steam used in contact with food or food-contact surfaces shall be free from any materials or additives other than those specified in 21 CFR 173.310.

(4) For purposes of this paragraph, the term "private nonprofit institution" means "a corporation, and any community chest, fund, or foundation, organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary, or educational purposes, or to foster national or international amateur sports competition (but only if no part of its activities involve the provision of athletic facilities or equipment), or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual, no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation, and which does not participate in, or intervene in (including the publishing or distribution of statements), any political campaign on behalf of (or in opposition to) any candidate for public office."

(5) The Administrator may withdraw or modify the exemption set forth in § 303.1(e)(1) for a particular establishment when he or she determines that such action is necessary to ensure food safety and public health. Before such action is taken, the owner or operator of the particular establishment shall be notified, in writing, of the reasons for the proposed action and shall be given an opportunity to respond, in writing, to the Administrator within 20 days after notification of the proposed action. The written notification shall be served on the owner or operator of the establishment in the manner prescribed in section 1.147(b) of the Department's Uniform Rules of Practice (7 CFR 1.147(b)). In those instances where there is conflict of any material fact, the owner or operator of the establishment, upon request, shall be afforded an opportunity for a hearing with respect to the disputed fact, in accordance with rules of practice which shall be adopted for the proceeding. However, such withdrawal or modification shall become effective pending final determination in the proceeding when the Administrator determines that an imminent threat to food safety or public health exists, and that such action is, therefore, necessary to protect the public health, interest or safety. Such withdrawal or modification shall be effective upon oral or written notification, whichever is earlier, to the owner or operator of the particular establishment as promptly as circumstances permit. In the event of oral notification, written confirmation shall be given to the owner or operator of the establishment as promptly as circumstances permit. This withdrawal or modification shall continue in effect ending the completion of the proceeding and any judicial review thereof, unless otherwise ordered by the Administrator.

* * * * *

PART 381—POULTRY PRODUCTS INSPECTION REGULATIONS

3. The authority citation for part 381 continues to read as follows:

Authority: 7 U.S.C. 450, 21 U.S.C. 451–470, 7 CFR 2.17, 2.55.

4. Section 381.10 is amended by adding a new paragraph (e) to read as follows:

§ 381.10 Exemptions.

* * * * *

(e) (1) The requirements of the Act and the regulations in this subchapter for inspection of the preparation of products do not apply to poultry pizzas containing poultry product ingredients which were prepared, inspected, and passed in a cured or cooked form as ready-to-eat (i.e., no further cooking or other preparation is needed) in compliance with the requirements of the Act and these regulations; and the poultry pizzas are to be served in public or private nonprofit institutions, provided that the poultry pizzas are ready to eat (i.e., no further cooking or other preparation is needed, except that they may be reheated prior to serving if chilled during transportation), transported directly to the receiving institution by employees of the preparing firm, receiving institution, or a food service management company contracted to conduct food service at the public or private nonprofit institution, without intervening transfer or storage.

(2) The definitions at Chapter 1, 1–102, except 1–102(z) and the provisions of Chapters 2 through 8, except sections 2–102 (a) and (b), 2–302(d), 2–403(a), 2–403(c), 2–404, 2–405, 2–407, 2–502 through 2–506, 2–508, 2–509, 4–105, 4–201(c), 4–208, 5–101(a), 5–103, 5–104, 5–202(c), 5–203, and 6–105, Part IV, of the Food and Drug Administration's Food Service Sanitation Manual (1976 Recommendations), DHEW Publication No. (FDA) 78–2081, which is incorporated by reference, shall apply to the facilities and operations of businesses claiming this exemption. (These materials are incorporated as they exist on the date of approval. 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 purchased from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402. It is also available for inspection at the Office of the Federal Register Information Center, Suite 700, 800 North Capitol Street, NW., Washington, DC, or the FSIS Hearing Clerk, room 3171, South Building, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250.)

(3) Facilities and operations of businesses claiming this exemption shall also conform to the following requirements:

(i) *Manual cleaning and sanitizing.* (A) For manual washing, rinsing and sanitizing of utensils and equipment, a sink with not fewer than three compartments shall be provided and used. Sink compartments shall be large enough to permit the accommodation of the equipment and utensils, and each compartment of the sink shall be supplied with hot and cold potable running water. Fixed equipment and utensils and equipment too large to be cleaned in sink compartments shall be washed manually or cleaned through pressure spray methods.

(B) Drain boards or easily movable dish tables of adequate size shall be provided for proper handling of soiled utensils prior to washing and for cleaned utensils following sanitizing and shall be located so as not to interfere with the proper use of the dishwashing facilities.

(C) Equipment and utensils shall be preflushed or prescraped and, when necessary, presoaked to remove gross food particles and soil.

(D) Except for fixed equipment and utensils too large to be cleaned in sink compartments, manual washing, rinsing and sanitizing shall be conducted in the following sequence:

(*1*) Sinks shall be cleaned prior to use.

(*2*) Equipment and utensils shall be thoroughly washed in the first compartment with a hot detergent solution that is kept clean.

(*3*) Equipment and utensils shall be rinsed free of detergent and abrasives with clean water in the second compartment.

(*4*) Equipment and utensils shall be sanitized in the third compartment according to one of the methods prescribed in paragraph (e)(3)(i)(E) (*1*) through (*4*) of this section.

(E) The food-contact surfaces of all equipment and utensils shall be sanitized by:

(*1*) Immersion for at least ½ minute in clean, hot water at a temperature of at least 170 °F; or

(*2*) Immersion for at least 1 minute in a clean solution containing at least 50 parts per million of available chlorine as a hypochlorite and at a temperature of at least 75 °F; or

(*3*) Immersion for at least 1 minute in a clean solution containing at least 12.5 parts per million of available iodine and having a pH not higher than 5.0 and at a temperature of at least 75 °F; or

(*4*) Immersion in a clean solution containing any other chemical sanitizing agent allowed under 21 CFR 178.1010 that will provide the equivalent bactericidal effect of a solution containing at least 50 parts per million of available chlorine as a hypochlorite at a temperature of at least 75 °F for 1 minute; or

(*5*) Treatment with steam free from materials or additives other than those specified in 21 CFR 173.310 in the case of equipment too large to sanitize by immersion, but in which steam can be confined; or

(*6*) Rinsing, spraying, or swabbing with a chemical sanitizing solution of at least twice the strength required for that particular sanitizing solution under paragraph (e)(3)(i)(E)(*4*) of this section in the case of equipment too large to sanitize by immersion.

(F) When hot water is used for sanitizing, the following facilities shall be provided and used:

(*1*) An integral heating device or fixture installed in, on, or under the sanitizing compartment of the sink capable of maintaining the water at a temperature of at least 170 °F; and

(*2*) A numerically scaled indicating thermometer, accurate to ±3°F, convenient to the sink for frequent checks of water temperature; and

(*3*) Dish baskets of such size and design to permit complete immersion of the tableware, kitchenware, and equipment in the hot water.

(G) When chemicals are used for sanitization, they shall not have concentrations higher than the maximum permitted under 21 CFR 178.1010 and a test kit or other device that accurately measures the parts per million concentration of the solution shall be provided and used.

(ii) *Mechanical cleaning and sanitizing.* (A) Cleaning and sanitizing may be done by spray-type or immersion dishwashing machines or by any other type of machine or device if it is demonstrated that it thoroughly cleans and sanitizes equipment and utensils. These machines and devices shall be properly installed and maintained in good repair. Machines and devices shall be operated in accordance with manufacturers' instructions, and utensils and equipment placed in the machine shall be exposed to all dishwashing cycles. Automatic detergent dispensers, wetting agent dispensers, and liquid sanitizer injectors, if any, shall be properly installed and maintained.

(B) The pressure of final rinse water supplied to spray-type dishwashing machines shall not be less than 15 nor more than 25 pounds per square inch measured in the water line immediately adjacent to the final rinse control valve. A ¼-inch IPS valve shall be provided immediately upstream from the final rinse control valve to permit checking the flow pressure of the final rinse water.

(C) Machine or water line mounted numerically scaled indicating thermometers, accurate to ±3°F, shall be provided to indicate the temperature of the water in each tank of the machine and the temperature of the final rinse water as it enters the manifold.

(D) Rinse water tanks shall be protected by baffles, curtains, or other effective means to minimize the entry of wash water into the rinse water. Conveyors in dishwashing machines shall be accurately timed to assure proper exposure times in wash and rinse cycles in accordance with manufacturers' specifications attached to the machines.

(E) Drain boards shall be provided and be of adequate size for the proper handling of soiled utensils prior to washing and of cleaned utensils following sanitization and shall be so located and constructed as not to interfere with the proper use of the dishwashing facilities. This does not preclude the use of easily movable dish tables for the storage of soiled utensils or the use of easily movable dishtables for the storage of clean utensils following sanitization.

(F) Equipment and utensils shall be flushed or scraped and, when necessary, soaked to remove gross food particles and soil prior to being washed in a dishwashing machine unless a prewashcycle is a part of the dishwashing machine operation. Equipment and utensils shall be placed in racks, trays, or baskets, or on conveyors, in a way that food-contact surfaces are exposed to the unobstructed application of detergent wash and clean rinse waters and that permits free draining.

(G) Machines (single-tank, stationary-rack, door-type machines and spray-type glass washers) using chemicals for sanitization may be used: Provided, That,

(*1*) The temperature of the wash water shall not be less than 120 °F.

(*2*) The wash water shall be kept clean.

(*3*) Chemicals added for sanitization purposes shall be automatically dispensed.

(*4*) Utensils and equipment shall be exposed to the final chemical sanitizing rinse in accordance with manufacturers' specifications for time and concentration.

(*5*) The chemical sanitizing rinse water temperature shall be not less than 75 °F nor less than the temperature specified by the machine's manufacturer.

(*6*) Chemical sanitizers used shall meet the requirements of 21 CFR 178.1010.

(*7*) A test kit or other device that accurately measures the parts per million concentration of the solution shall be available and used.

(H) Machines using hot water for sanitizing may be used provided that wash water and pumped rinse water shall be kept clean and water shall be maintained at not less than the following temperatures:

(*1*) Single-tank, stationary-rack, dual-temperature machine:

Wash temperature	150 °F
Final rinse temperature	180 °F

(*2*) Single-tank, stationary-rack, single-temperature machine:

Wash temperature	165 °F
Final rinse temperature	165 °F

(*3*) Single-tank, conveyor machine:

Wash temperature	160 °F
Final rinse temperature	180 °F

(*4*) Multitank, conveyor machine:

Wash temperature	150 °F
Pumped rinse temperature	160 °F
Final rinse temperature	180 °F

(5) Single-tank, pot, pan, and utensil washer (either stationary or moving-rack):

Wash temperature	140 °F
Final rinse temperature	180 °F

(I) All dishwashing machines shall be thoroughly cleaned at least once a day or more often when necessary to maintain them in a satisfactory operating condition.

(iii) *Steam.* Steam used in contact with food or food-contact surfaces shall be free from any materials or additives other than those specified in 21 CFR 173.310.

(4) For purposes of this paragraph, the term "private nonprofit institution" means "a corporation, and any community chest, fund, or foundation, organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary, or educational purposes, or to foster national or international amateur sports competition (but only if no part of its activities involve the provision of athletic facilities or equipment), or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual, no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation, and which does not participate in, or intervene in (including the publishing or distribution of statements), any political campaign on behalf of (or in opposition to) any candidate for public office."

(5) The Administrator may withdraw or modify the exemption set forth in § 381.10(e)(1) for a particular establishment when he or she determines that such action is necessary to ensure food safety and public health. Before such action is taken, the owner or operator of the particular establishment shall be notified, in writing, of the reasons for the proposed action and shall be given an opportunity to respond, in writing, to the Administrator within 20 days after notification of the proposed action. The written notification shall be served on the owner or operator of the establishment in the manner prescribed in section 1.147(b) of the Department's Uniform Rules of Practice (7 CFR 1.147(b)). In those instances where there is conflict of any material fact, the owner or operator of the establishment, upon request, shall be afforded an opportunity for a hearing with respect to the disputed fact, in accordance with rules of practice which shall be adopted for the proceeding. However, such withdrawal or modification shall become effective pending final determination in the proceeding when the Administrator determines that an imminent threat to food safety or public health exists, and that such action is, therefore, necessary to protect the public health, interest or safety. Such withdrawal or modification shall be effective upon oral or written notification, whichever is earlier, to the owner or operator of the particular establishment as promptly as circumstances permit. In the event of oral notification, written confirmation shall be given to the owner or operator of the establishment as promptly as circumstances permit. This withdrawal or modification shall continue in effect pending the completion of the proceeding and any judicial review thereof, unless otherwise ordered by the Administrator.

(6) The adulteration and misbranding provisions of the Act and the regulations apply to articles which are exempted from inspection under § 381.10(e).

Done at Washington, DC, on July 27, 1992.

Donald L. White,

Acting Administrator, Food Safety and Inspection Service.

[FR Doc. 92-18203 Filed 7-31-92; 8:45 am]

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federal register

Monday
August 3, 1992

Part IV

Department of Transportation

Coast Guard

46 CFR Part 28

Commercial Fishing Industry Vessel Regulations; Final Rule

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Part 28

[CGD-88-079b]

RIN 2115-AD12

Commercial Fishing Industry Vessel Regulations

AGENCY: Coast Guard, DOT.

ACTION: Interim rule with request for comments.

SUMMARY: The Coast Guard is amending the requirement, found in the final rule for Commercial Fishing Industry Vessels, to carry immersion suits for each individual on board undocumented commercial fishing industry vessels operating on coastal waters which are only seasonally cold; and documented commercial fishing industry vessels operating inside the Boundary Line on waters which are only seasonally cold. Coastal waters that are seasonally cold are defined as the U.S. waters of the Great Lakes, except for Lake Superior; the coastal waters on the entire east coast of the United States; and the coastal waters on the west coast of the United States, south of Point Reyes, CA. The Coast Guard solicited proposals from the Commercial Fishing Industry Vessel Advisory Committee concerning the carriage of immersion suits on vessels operating in seasonally cold waters at its meeting in May 1992. The Coast Guard is drafting a NPRM incorporating the Committee's proposals addressing the carriage of immersion suits on these vessels, to be published later in the year.

EFFECTIVE DATE: August 3, 1992.

ADDRESSES: Between the hours of 8 a.m. and 3 p.m., Monday through Friday, except holidays, comments and the final rule are available for inspection and copying at room 3406, U.S. Coast Guard Headquarters, 2100 Second Street, SW., Washington, DC 20593-0001. The telephone number is (202) 267-1477.

FOR FURTHER INFORMATION CONTACT: Lieutenant Commander Tim Skuby, Office of Marine Safety, Security, and Environmental Protection (G-MVI-4), (202) 267-2307.

SUPPLEMENTARY INFORMATION: Public Law 100-424, known as the "Commercial Fishing Industry Vessel Safety Act of 1988" (the Act), required the Secretary of Transportation to prescribe regulations for certain safety equipment and vessel operating procedures for U.S. documented or state numbered uninspected fishing, fish processing, and fish tender vessels. In particular 46 U.S.C. 4502(a)(2) requires that all vessels have "at least one readily accessible life preserver or other lifesaving device for each individual on board". In addition, 46 U.S.C. 4502(b)(3) requires that all documented vessels that operate beyond the Boundary Line or that operate with more than 16 individuals on board, have "at least one readily accessible immersion suit for each individual on board that vessel when operating on the Atlantic Ocean north of 32 degrees North latitude or south of 32 degrees South latitude and in all other waters north of 35 degrees North latitude or south of 35 degrees South latitude". The Notice of Proposed Rulemaking (NPRM), which was published in the **Federal Register** on April 19, 1990 (55 FR 14924), proposed the requirement that there be an immersion suit for each individual on board all vessels operating either on the Ocean, beyond the Boundary Line and north of 32°N or south of 32°S; or on the Great Lakes. The proposed requirement did not include requiring immersion suits for each individual on board vessels operating on near shore, inland, or coastal waters that were also "cold waters". Additionally, the NPRM proposed that the 32°N and 32°S latitudes be adopted as the exemption lines for all waters, in lieu of using 32°N and 32°S for the Atlantic and 35°N and 35°S for all other waters.

In the preamble to the final rule, the Coast Guard stated its conclusion that immersion suits were of critical importance in cold waters where hypothermia could cause death in a matter of minutes. Additionally, it was the Coast Guard's opinion that the authority to extend the requirement for immersion suits for certain vessels was provided in section 4502(a)(2) of the Act. Therefore, the Coast Guard decided to require all commercial fishing industry vessels, documented and undocumented, to have immersion suits for each individual on board when operating on or beyond the following cold waters:

1. The territorial seas of the United States;

2. The U.S. waters of the Great Lakes (Lake Erie, Huron, Michigan, Ontario, and Superior); or

3. Those waters directly connected to the Great Lakes or territorial seas (i.e. bays, sounds, harbors, rivers, inlets, etc.) where any entrance exceeds 2 nautical miles between opposite shorelines to the first point where the largest distance between shorelines narrows to 2 miles, as shown on the current edition of the appropriate National Ocean Service chart used for navigation. Shorelines of islands or points of land present within a waterway are considered when determining the distance between opposite shorelines.

The final rule was published in the **Federal Register** on August 14, 1991 (56 FR 40364), and became effective September 15, 1991, except that vessels were not required to be in compliance with the immersion suit requirements until November 15, 1991.

In order to specify the safety/survival equipment carriage requirements for waters other than "oceans", the definition of coastal waters contained in 33 CFR 175.105 was utilized as it was in defining the requirements for distress signals. However, use of the coastal waters concept as a means of defining the waters where personal flotation devices and immersion suits are required was not presented in the NPRM and the public did not have the opportunity to comment on its use for that purpose. Similarly, the requirement to have immersion suits was tied to the definition of "cold water". This term not only serves to limit the geographic coverage of the term "coastal waters", it also provides for the seasonal application of the requirements. For example, a vessel operating in coastal waters that do not get "cold", as defined in § 28.50, is not required to have immersion suits. Since publication of the final rule, the Coast Guard has received comments indicating there is confusion concerning where and when vessels operating in certain inland waters are required to carry immersion suits and comments that the expense of carrying immersion suits is not justified for vessels operating close to shore, generally within the territorial sea. It appears that the rulemaking would have benefited from a more thorough consideration of when and where immersion suits should be required, other than for ocean areas, if the NPRM had specifically proposed a coverage requirement for these waters. Therefore, the Coast Guard is deleting the requirement for vessels to carry immersion suits for each individual on board undocumented commercial fishing industry vessels operating on coastal waters which are only seasonally cold, and documented commercial fishing industry vessels operating inside the Boundary Line on waters which are only seasonally cold. The Coast Guard will publish a NPRM specifically addressing the coverage requirement for immersion suits on vessels operating on inland and near shore waters that are seasonally cold. This action will reduce the burden on some vessel owners of having to purchase immersion suits now.

The Coast Guard is publishing this rulemaking without notice and the opportunity for comment. As discussed previously, the use of the coastal waters concept as a means of defining the waters where personal flotation devices and immersion suits are required was not presented in the NPRM preceding the final rule. Therefore, pursuant to 5 U.S.C. 553(b), the Coast Guard finds that notice and opportunity for comment on this rulemaking are unnecessary and contrary to the public interest. Further, since the effect of this rulemaking will be to relieve the public of a restriction that was not presented for comment in the NPRM, the Coast Guard finds good cause under 5 U.S.C. 553(d) for making this rulemaking effective in less than 30 days after publication in the Federal Register.

As a result of this action all documented commercial fishing industry vessels that operate:

(1) On the U.S waters of the Great Lakes, except for Lake Superior;
(2) Inside the Boundary Line on the entire east coast of the United States; or
(3) Inside the Boundary Line on the west coast of the United States, south of Point Reyes, CA., and all undocumented commercial fishing industry vessels that operate on:

(1) The U.S. waters of the Great Lakes, except for Lake Superior;
(2) Coastal waters along the entire east coast of the United States; or
(3) Coastal waters along the west coast of the United States, south of Point Reyes, CA., will not be required to carry immersion suits for each individual on board. In the interim, these vessels will be required to meet the personal flotation device requirements in 46 CFR 25.25. Documented and undocumented commercial fishing industry vessels operating on waters other than described above, at any time, are unaffected by this suspension. The waters of Lake Superior and the coastal waters along the west coast of the United States, north of Point Reyes CA have a monthly mean temperature below 59°F at all times. Since there appears to be little controversy concerning the need for immersion suits on vessels operating in these areas, they will continue to be required. However, comments are solicited as to whether this requirement should be rescinded for some or all of these waters pending publication of new proposals for vessels operating in coastal waters.

The Coast Guard solicited proposals concerning the carriage of immersion suits on vessels operating on coastal waters, from the Commercial Fishing Industry Vessel Safety Advisory Committee at its meeting in May 1992. The Coast Guard is drafting a NPRM incorporating the committee's proposals addressing the carriage of immersion suits on these vessels, to be published later in the year.

Regulatory Evaluation

The final rule was considered to be non-major under Executive Order 12291 on Federal Regulation and significant under DOT regulatory policies and procedures (44 FR 11034, February 26, 1979). A final regulatory evaluation for the final rule was prepared and placed in the docket. It may be inspected and copied at the address listed under "ADDRESSES". This amendment of the final rule has a minimal economic impact, and will not significantly affect the conclusions of the final regulatory evaluation. This amendment of the final rule will reduce the immediate requirement for immersion suits on approximately 48,250 of the smaller fishing vessels at an estimated savings of $22.5 million. Considering that many of the vessel operators or individual crewmembers may elect to purchase immersion suits as a voluntary safety measure, the actual savings are anticipated to be $8.5 million. Therefore, this amendment is considered to be not major under the Executive Order and nonsignificant under the Department of Transportation regulatory policies and procedures.

Regulatory Flexibility Act

This amendment of the final rule is expected to have a minimal negative economic impact, which is also expected to be temporary. Immersion suit manufacturers and/or suppliers were expecting a large demand due to the requirements in the final rule. While the requirement for immersion suits is reduced, there will still be a continued demand for them. Many vessel owners and individual crewmembers purchased immersion suits as a voluntary safety measure before the final rule was published in August 1991, and with increased safety awareness in the commercial fishing industry, this should continue. Therefore, the Coast Guard certifies that this proposal will not have a significant economic impact on a substantial number of small entities.

Environmental Impact

It has been determined that the final rule is categorically excluded from detailed environmental evaluation due to the inconsequential affects these rules are expected to have on the environment. The Categorical Exclusion Determination for the original rulemaking is available in the docket for examination.

Collection of Information

This rule contains no collection of information requirements under the Paperwork Deduction 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 the Interim final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment. This interim rule relieves commercial fishing industry vessels of a requirement to carry an item of safety equipment in certain waters. The authority to regulate concerning the carriage requirements of safety equipment aboard commercial fishing vessels operating in U.S. waters is committed to the Coast Guard by statute. Furthermore, since commercial fishing vessels tend to move from port to port in the national marketplace, carriage requirements for safety equipment is a matter for which regulations should be of national scope to avoid unreasonably burdensome variances. Therefore, if this rule becomes final, the Coast Guard intends it to preempt State action addressing the same matter.

List of Subjects in 46 CFR Part 28

Fire prevention, Fishing vessels, Incorporation by reference, Lifesaving equipment, Main and auxiliary machinery, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Seamen, Stability.

In consideration of the foregoing, the Coast Guard amends chapter I, title 46, Code of Federal Regulations, part 28 as follows:

PART 28—[AMENDED]

1. The authority citation for part 28 continues to read as follows:

Authority: 46 U.S.C. 3316, 4502, 4506, 6104, 10603; 49 U.S.C. APP. 1804; 49 CFR 1.46.

2. Section 28.110 is amended by revising table 28.110 to read as follows:

§ 28.110 Life preservers or other personal flotation devices.

* * * * *

TABLE 28.110.—PERSONAL FLOTATION DEVICES AND IMMERSION SUITS

Applicable waters	Vessel type	Devices required	Other regulations
Seaward of the Boundary Line and North of 32°N or South of 32°S; and Lake Superior.	Documented Vessel	Immersion suit or exposure suit.[1]	28.135; 25.25-9(a); 25.25-13; 25.25-15.
Coastal Waters on the West Coast of the United States north of Point Reyes, CA; Beyond Coastal Waters, cold water; and Lake Superior.	All vessels	....do[1]	Do.
All other waters (Includes all Great Lakes except Lake Superior).	40 feet (12.2 meters) or more in length.	Type I, Type V commercial hybrid, immersion suit, or exposure suit.[2]	28.135; 25.25-5(e); 25.25-5(f); 25.25-9(a); 25.25-13; 25.25-15.
	Less than 40 feet (12.2 meters) in length.	Type I, Type II, Type III, Type V commercial hybrid, immersion suit, or exposure suit.[2]	Do.

[1] Until September 1, 1995, individuals weighing less than 44 pounds (196 Newtons) may substitute an approved personal flotation device of the appropriate size for a required immersion suit or exposure suit.

[2] Certain Type V personal flotation devices are approved for substitution for Type I, II, or III personal flotation devices when used in accordance with the conditions stated in the Coast Guard approval table.

Dated: January 28, 1992.

A.E. Henn,

Rear Admiral, U.S. Coast Guard Chief, Office of Marine Safety, Security and Environment Protection.

[FR Doc. 92-18140 Filed 7-31-92; 8:45 am]

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federal register

Monday
August 3, 1992

Part V

Department of Labor

Occupational Safety and Health Administration

29 CFR Part 1910

Ergonomic Safety and Health Management; Proposed Rule

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1910

[Docket No. S-777]

RIN 1218-AB36

Ergonomic Safety and Health Management

AGENCY: Occupational Safety and Health Administration.

ACTION: Advance Notice of Proposed Rulemaking; Requests for comments and information.

SUMMARY: In recent years there has been a significant increase in the reported cases of ergonomic disorders in the workplace. The Bureau of Labor Statistics has reported that the number of "disorders associated with repeated trauma" has more than tripled since 1984. In response to this as well other available information, the Occupational Safety and Health Administration (OSHA) is announcing the initiation of rulemaking under section 6(b) of the Occupational Safety and Health Act of 1970, 29 U.S.C. 655, and requesting information relevant to preventing, eliminating, and reducing occupational exposure to ergonomic hazards. OSHA is considering the development of a safety and health management standard that would address ergonomic hazards in the workplace for general industry or specific industries or subsectors within general industry, as well as for maritime, construction, and agriculture industries.

This Advance Notice of Proposed Rulemaking (ANPR) briefly summarizes the ongoing activities in this area; describes information available to OSHA concerning ergonomic hazards, ergonomic disorders, and risk estimates; and requests information for consideration in the development of a standard. Interested parties are invited to submit data, comments, and other pertinent information regarding OSHA's development of a proposed standard addressing ergonomic hazards. Responses to questions are requested regarding the need for an ergonomic safety and health management standard, as well as the content, extent, and scope of the suggested components of such a standard.

As part of the initiation of rulemaking, OSHA is also considering the need to hold several informal public meetings in various locations throughout the United States to permit oral presentations of additional comments, information, and data concerning the development of a regulation addressing ergonomic hazards in the workplace.

DATES: Comments and information on this ANPR must be received by February 1, 1992.

ADDRESSES: Comments and information on this ANPR should be sent in quadruplicate to the OSHA Docket Office, Docket No. S-777, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Ave., N.W., Room N-2625, Washington, D.C. 20210. Comments and information on this ANPR may not be sent to OSHA by facsimile.

FOR FURTHER INFORMATION CONTACT: Mr. James F. Foster, Occupational Safety and Health Administration, Office of Information and Consumer Affairs, 200 Constitution Ave., N.W., Room N-3647, Washington, D.C. 20210, (202) 523-8151.

SUPPLEMENTARY INFORMATION:

I. Background

A substantial number of American workers may be at risk of developing some type of ergonomic disorder due to their exposure to ergonomic hazards in the workplace. In recent years there has been a significant increase in the number of occupational ergonomic disorders reported, including cumulative trauma disorders (CTDs) and other work-related disorders due to ergonomic hazards. Ergonomic disorders, ergonomic hazards and ergonomic stressors are defined, for the purposes of this ANPR and discussed further in Appendix A. In summary, OSHA is defining ergonomic disorders as disorders of the musculoskeletal and nervous systems occurring in either the upper or lower extremities, including backs. These may be caused or aggravated by repetitive motions, forceful exertions, vibration, sustained or awkward positioning or mechanical compression of the hand, wrist, arm, back, neck, shoulder, and leg over extended periods or from other ergonomic stressors. For the purpose of this ANPR ergonomic disorders include, among others, carpal tunnel syndrome, various tendon disorders, and lower back injuries.

Some of this increase in the number of reported cases of ergonomic disorders may be due to increased awareness by industry, labor, and government that ergonomic disorders have a connection to the workplace. Most ergonomic hazards and related disorders, however, appear to be due to changes in production processes and technologies, resulting in more specialized tasks with increased repetitions and higher assembly line speeds. In many cases these changes have not concomitantly included integration of ergonomic technologies. Other major factors contributing to ergonomic disorders are incentive or piecework systems and voluntary overtime work. These systems expose employees to an increase in the duration of repetitive motion as well as to an increase in other ergonomic stressors which may be present.

Ergonomic disorders are the most rapidly growing category of reported work-related illnesses. The Bureau of Labor Statistics (BLS) has reported that the number of "disorders associated with repeated trauma" has more than tripled since 1984 (Ex. 2-1). (BLS includes in this category conditions due to repeated motion, vibration, and pressure as well as chronic noise-induced hearing loss. This category, however, excludes all back cases (Ex. 2-27). Moreover, this category includes only new, rather than existing cases.) In 1989, these serious disorders, which may be crippling, approached nearly 147,000 cases and accounted for 52 percent of all recordable occupational illnesses reported to OSHA (Ex. 2-1). In 1981 and 1984, these disorders accounted for only 18 and 28 percent, respectively, of all recordable illnesses (Ex. 2-1).

The BLS data, however, may not fully account for all employees who may have developed ergonomic disorders. According to several studies, data compiled by BLS generally tend to underestimate the number of workplace illnesses and injuries (Ex. 2-22). A University of California study published in the January 1991 issue of American Journal of Public Health found that only 60 and 44 percent of all work- related injuries and illnesses, respectively, were reported (Ex. 2-2). The authors suggested that the illness incidence rate may be 130 percent higher than reported (Ex. 2-2).

A number of Health Hazard Evaluation (HHE) studies on CTDs conducted by National Institute for Occupational Safety and Health (NIOSH) also found that BLS statistics for relevant industries underestimated actual prevalence rates observed by NIOSH at company sites. NIOSH found in a vast majority of those studies that OSHA 200 logs, upon which the BLS statistics are based, underestimated the actual CTD prevalence rates NIOSH observed based in reviewing the company's dispensary logs, conducting medical examinations, and surveying employees (Exs. 2-3 *et seq.*). In 1989, NIOSH estimated that the exposed workforce may be as high as a quarter of all workers, or 8 to 9 million workers

(Ex. 2–4). However, since NIOSH's estimate was based on 1981–1983 data, it too may underestimate the current exposed working population.

Much of the suggested underestimation of ergonomic disorders in BLS statistics may be due to confusion by employers over how to record a particular disorder in a company's OSHA 200 logs. For example, a loss of hearing resulting from an explosion (an instantaneous event), should be classified as an occupational injury; the same condition arising from exposure to industrial noise over a period of time should be classified as an occupational illness. However, this may also be due to the fact that BLS does not include back cases in its classification of disease associated with repeated trauma (Ex. 2–27). Back disorders, as noted later, are the most frequently occurring workplace disorder.

Other studies and data indicate that in many industries, especially those that involve hand-intensive tasks, the number of reported ergonomic disorders has significantly increased (both in number and as a percentage of total reported occupational illnesses) and incidence rates are high (Ex. 2–1, p. 6). For example, recent NIOSH HHEs conducted at plants in a variety of industries document high incidence rates: 50 percent for supermarket cashiers, 41 percent for meatpackers, 40 percent for newspaper employees, 30 percent for specialty glass workers, and 20 percent for poultry workers (Ex. 2–3 *et seq.*). The number of reported cases of cumulative trauma disorders among postal workers rose by 75 percent between 1989 and 1990. According to Office of Workers' Compensation Programs data, postal workers reported 326 cases of cumulative trauma disorders in 1989 and payout on those cases totaled approximately $3.8 million (Ex. 2–5). In 1990, there were 572 cases reported by postal workers (Exs. 2–5, 2–19). It is estimated that musculoskeletal disorders, including other soft tissue injuries such as back injuries, carpal tunnel syndrome, sprains and strains, are responsible for 30 to 40 percent of all worker compensation claims (Ex. 2– 20).

The costs of ergonomic disorders to workers, business, and society have also grown dramatically. The American Academy of Orthopedic Surgeons estimated in 1984 that overall repetitive motion disorders cost $27 billion a year in lost earnings and medical expenses (Ex. 2–8). CTDs also account for an large and increasing percentage of worker compensation costs each year (Exs. 2–6, 2–10). For example, the National Safety Council reports that occupational back injuries, which NSC states are the most frequently occurring workplace disorder (380,000 cases and 22 percent of all reported cases in 12 states in 1985–1987), account for 32 percent of all worker compensation dollars paid in these states during that time period (Ex. 2–6). In 1986, it has been estimated that the total compensable cost for low back pain cases in the United States was $11.1 billion. (Ex. 2–7). Furthermore, the costs for low back pain cases appear to be rising at a faster rate than other types of compensable injuries (Ex. 2–7). It should be noted that not all back disorders are the result of repeated trauma.

Data on upper extremity CTDs compiled by Liberty Mutual, the largest writer of workers' compensation coverage in the United States, indicate that the increasing incidence of these cases is now exceeded by the increasing costs of these cases (Exs. 2–7, 2–10). Since 1987 the costs of upper extremity CTDs, as a percentage of all worker compensation costs for Liberty Mutual, have quadrupled (Ex. 2–10). Moreover, upper extremity CTD cases are more expensive than the average occupational injury or illness claim; that is, they represent a greater percentage of total compensation costs relative to the number of cases than do other illness and injury cases (Ex. 2–10).

Based on information available to OSHA, companies that have implemented ergonomic programs have reduced the number of ergonomic disorders, while achieving other benefits, such as improved product quality and employee morale. GE Medical Systems, a subsidiary of General Electric Corporation, established a pilot ergonomics program (Ex. 2–11) whose approach incorporated some of the program components of OSHA's "Safety and Health Program Management Guidelines" and "Ergonomics Program Management Guidelines for Meatpacking Plants." (These two guidelines are both discussed further below.) After implementation of the pilot program, GE Medical Systems reduced the number of cases or complaints related to ergonomic hazards from 35 to one in four months (Ex. 2–11). In addition, the GE Medical Systems safety manager reported that the quality of the product had been enhanced by the implementation of the ergonomics program (Ex. 2–11). Most solutions to the ergonomic hazards at the company were "relatively inexpensive," however, in cases where the company spent significant money to eliminate ergonomic hazards, the company said it has been "cost-justified" (Ex. 2–11). As a result, the company has expanded the program (Ex. 2–11).

The increasing number of ergonomic disorders affecting employees in a wide variety of industries and the significant costs of these disorders to employees, employers, and society suggest that a regulation to prevent, eliminate, and reduce ergonomic hazards in the workplace may be necessary. Therefore, OSHA is considering the development of an ergonomic safety and health management standard that would cover general, maritime, construction, and agriculture industries. OSHA is also considering whether this standard would need to cover not only processes, machines, and work methods that are common across industry, such as computer keyboards, but also those that are unique to particular industries, such as sewing machines in the garment industry.

If necessary, an ergonomics standard might include general components similar to those contained in the OSHA "Safety and Health Program Management Guidelines," published January 26, 1989 (Ex. 2–12). These components are 1) worksite analysis (which includes record assessment), 2) hazard prevention and control, 3) medical management, and 4) training and education. These components are recommendations by OSHA to all employers as a foundation for their safety and health programs and as a framework for their ergonomics programs. These components are defined and discussed further in Appendix A.

II. Ongoing Activities on Ergonomic Hazards in the Workplace

Although OSHA currently has no regulation to address ergonomic hazards, there are a number of actions OSHA has taken with regard to ergonomic hazards within the past few years.

First, the Safety and Health Program Management Guidelines discussed above have been applied to certain ergonomic hazards. In November 1988, OSHA received a petition from an employer in the meat packing industry requesting that OSHA develop a standard concerning ergonomic issues. In response to that petition, in August 1990, OSHA issued the Ergonomics Program Management Guidelines for Meatpacking Plants (Ex. 2– 13) which utilized the four program management components. The guidelines were based on the best available scientific evidence, advice from NIOSH, medical literature, and OSHA's experience in enforcement.

Second, at the time OSHA issued the meatpacking guidelines, the Agency also announced its intention to institute a national ergonomics special emphasis program for the red meat industry to foster better working conditions in that industry. Under the special emphasis program the guidelines were sent to each red meat plant in the United States and small employers were able to request training and other technical assistance from OSHA.

Along with the distribution of the guidelines, citations for ergonomics-related hazards have been issued to employers in the red meat industry. Under the authority of section 5(a)(1) of the Occupational Safety and Health Act of 1970 (OSH Act), 29 U.S.C. 654 (a)(1), which states that employers have a general duty to furnish each employee with employment and a place of employment which are free from "recognized hazards," regardless of whether such hazards are regulated by specific federal standards. Although recognition of ergonomic hazards and presence of ergonomic disorders have not been confined to the meatpacking industry, the high incidence and severity of CTDs and other ergonomically related disorders in this industry indicated that an effective comprehensive program should be implemented by employers in this industry to protect workers from these hazards.

Third, OSHA has also used its authority under section 5(a)(1) to pursue various enforcement actions in other industries addressing the presence of ergonomic hazards in the workplace. Some of these actions have resulted in corporate-wide agreements in the poultry processing and auto manufacturing industries to implement comprehensive ergonomic programs utilizing the program management components in the meatpacking guidelines. Comprehensive ergonomics programs also are being implemented in several apparel plants as a result of enforcement actions.

Fourth, the OSHA Training Institute in Des Plaines, IL, is offering a course on ergonomic hazards in the meatpacking industry for federal and state enforcement staff, as well as for state consultation staff. In addition, in August 1991, this course was presented in Washington, D.C., for meatpacking industry representatives.

Fifth, in order to give guidance to other industries, OSHA issued two publications in 1991 addressing ergonomic hazards, "Ergonomics: The Study of Work" (Ex. 2–14) and "Working Safely with Video Display Terminals" (Ex. 2–15).

Ergonomic hazards are also being addressed by others. For example, the American National Standards Institute has established a committee, ANSI Z365, with the National Safety Council as the secretariat, to develop a consensus standard on the control of cumulative trauma disorders. California OSHA is developing a proposed state ergonomics standard.

III. Petition for Emergency Temporary Standard

On July 31, 1991, the United Food and Commercial Workers Union (UCFW), along with the AFL-CIO and 29 other labor organizations, petitioned OSHA to take immediate action to reduce the risk to employees from exposure to ergonomic hazards (Ex. 2–16). They requested that OSHA issue an emergency temporary standard (ETS) on "Ergonomic Hazards to Protect Workers from Work-Related Musculoskeletal Disorders (Cumulative Trauma Disorders)" under section 6(c) of the Act. The petitioners also requested that within six months of the issuance of an emergency temporary standard OSHA promulgate a permanent standard to protect workers from cumulative trauma disorders in both general industry and construction.

On April 17, 1992, OSHA decided not to issue an ETS on ergonomic hazards (Ex. 2–28). OSHA agreed with the petitioners that available information, including the ETS petition and supporting documents, supported initiation of Section 6(b)(5) rulemaking to address ergonomic hazards. However, OSHA also concluded that, based on the statutory constraints and legal requirements governing issuance of an ETS, there was not sufficient basis for issuance of an ETS.

IV. Rulemaking Process

At the time OSHA issued the Ergonomic Program Management Guidelines for Meatpacking Plants, the Agency also indicated its intention to begin the rulemaking process by asking the public for information about ergonomic hazards across the country. The Agency indicated that this could be accomplished through a Request for Information or an Advance Notice of Proposed Rulemaking (ANPR) consistent with the Administration's Regulatory Program. Subsequently, OSHA formally placed an ergonomic rulemaking on the regulatory agenda (Ex. 2–17) and decided to issue an ANPR.

OSHA sent a draft copy of the proposed questions for comment on June 20, 1991, to 232 parties, such as labor organizations (including the petitioners), trade associations, occupational groups, and members of the ergonomic community (Ex. 2–18). OSHA requested comments on how the proposed questions should be posed by August 15, 1991. OSHA received 47 comments from those parties. In addition, OSHA met with the Chemical Manufacturers Association, Organization Resources Counselors, Inc., and the AFL-CIO and several member organizations, including the petitioners. OSHA reviewed the comments and submissions and incorporated relevant suggestions and comments into the ANPR.

V. Exhibits List

The following exhibits have been referenced in this ANPR and have been entered into the public docket at the address listed below.

2–1) U. S. Department of Labor. Bureau of Labor Statistics. 1991. "Occupational Injuries and Illnesses in the United States by Industry, 1989." Bureau of Labor Statistics Bulletin 2379. Washington, D.C.:U.S. Government Printing Office.

2–2) McCurdy, S., et al. 1991. "Reporting of Occupational Injury and Illness in the Semiconductor Industry," American Journal of Public Health. 81:85–89.

2–3) a. U.S. Department of Health and Human Services. Public Health Service Centers for Disease Control. National Institute for Occupational Safety and Health. (Hazard Evaluation Reports on Occupational Ergonomic Disorders.) 1976. Eastman Kodak Co., TA–76–93.

b. ---. 1979. Blue Shield of California, TA 79–060–843.

c. ---. 1979. Oakland Tribune, TA 79–061–844.

d. ---. 1981. Dart Industries, Inc., TA 80–096–973.

e. ---. 1981. Metalbestos Systems, Inc., TA 80–109–974.

f. ---. 1983. The Baltimore Sun, HETA 80–127–1337.

g. ---. 1982. Armco Composites, HETA 81–143–1041.

h. ---. 1982. Miller Electric Co., HETA 81–217–1086.

i. ---. 1985. McGraw Edison Co.-Electric Machinery, HETA 81–369–1591, HETA 81–466–1591.

j. ---. 1983. KP Manufacturing Co., HETA 81–375–1277.

k. ---. 1983. Donaldson Co., HETA 81–409–1290.

l. ---. 1984. General Motors Corp., HETA 81–433–1452.

m. ---. 1986. Carpet and Floorlayers, HETA 82–065–1664.

n. ---. 1983. American Standard, Inc., HETA 82–229–1286.

o. ---. 1985. Chef Francisco, Inc., HETA 83–053–1554.

p. ---. 1984. ICI Americas, Inc., HETA 83–142–1431.

q. ---. 1986. United Uniform Company of Memphis, HETA 83– 205–1702.

r. ---. 1984. Pelton and Crane Co., HETA 83–233–1410.

s. ---. 1986. Point Adams Packing Co., HETA 83–251–1685.

t. ---. 1984. Environmental Protection Agency, HETA 83– 463–1462.

u. ---. 1986. Air Force Guidance and Metrology Center, HETA 84–082–1713.

v. ---. 1989. Standard Publishing Co., HETA 84–187–1966.

w. ---. 1988. Western Publishing Co., HETA 84–240–1902.

x. ---. 1986. Minneapolis Police Dept., HETA 84–417–1745.

y. ---. 1986. AT&T--Southern Bell and United Telephone, HETA 85–452–1698.

z. ---. 1987. Gentle Home Products, HETA 85–480–1771.

aa. ---. 1987. Indiana Army Ammunition Plant, HETA 85–534– 1855.

bb. ---. 1988. Longmont Turkey Processors, Inc., HETA 86– 505–1885.

cc. ---. 1987. Devil's Lake Sioux Manufacturing Corp., HETA 87–097–1820.

dd. ---. 1990. Harvard Industries, Inc.--Anchor Saw Division, HETA 87–428–2063.

ee. ---. 1989. John Morrell & Co., HETA 88–150–1958.

ff. ---. 1989. Eljer Plumbingware, HETA 88–237–L1960.

gg. ---. 1990. Accuride Corp., HETA 88–277–2069.

hh. ---. 1990. Louie Glass Factory, HETA 88–299–2028.

ii. ---. 1991. Shoprite Supermarkets, HETA 88–344–2092.

jj. ---. 1990. Kroger Co., HETA 88–345–2031.

kk. ---. 1990. Caldwell Manufacturing Co., HETA 88–361– 2091.

ll. ---. 1990. Yorktowne, Inc., HETA 88–384–2062.

mm. ---. 1990. Eagle Convex Glass Co., HETA 89–137–2005.

nn. ---. 1990. Bennett Industries, HETA 89–146–2049.

oo. ---. 1990. Newsday, Inc., HETA 89–250–2046.

pp. ---. 1989. Cargill Poultry Division, HETA 89–251–1997.

qq. ---. 1990. Perdue Farms, Inc., HETA 89–307–2009.

rr. ---. 1990. Harley-Davidson, Inc., HETA 90–134–2064.

2–4) U.S. Congress. House. Committee on Government Operations, Subcommittee on Employment and Housing, Hearings on Dramatic Rise in Repetitive Motion Injuries and OSHA's Response, June 6, 1989. Testimony of Dr. Lawrence J. Fine, Director of the Division of Surveillance, Hazard Evaluation and Field Studies, U.S. Department of Health and Human Service. National Institute for Occupational Safety and Health. 101st Cong., 1st Sess..

2–5) Occupational Safety and Health Reporter. 1991. "Postal Service Responsible for 60 Percent of Carpal Tunnel Syndrome in Federal Work Force," Bureau of National Affairs 21:183.

2–6) National Safety Council. 1990. "Accident Facts" p.38 Chicago:National Safety Council.

2–7) Webster, B. and S. Snook. 1990. "The Cost of Compensable Low Back Pain," Journal of Occupational Medicine 32:13.

2–8) Fletcher, M. 1990. "Cumulative Trauma Disorders: Repetitive Motion Cases Cost Billion Annually," Business Insurance 24:3–6.

2–9) Occupational Safety and Health Reporter. 1991. "Expert Cites Successful Programs to Curb Injuries in Poultry Plants," Bureau of National Affairs 20:1716.

2–10) Brogmus, G. and R. Marko. 1990. "Cumulative Trauma Disorders of the Upper Extremity, The Magnitude of the Problem in U.S. Industry." In *Human Factors in Design for Manufacturability and Process Planning.* Proceedings of the International Ergonomics Association, Hawaii. pp. 49–59. Santa Monica:Human Factors Society.

2–11) Collins, L. 1990. "Ergonomic Plans Producing Results," Business Insurance 24:18–19.

2–12) U.S. Department of Labor. Occupational Safety and Health Administration. 1989. "Safety and Health Program Management Guidelines," 54 FR 3904.

2–13) U.S. Department of Labor. Occupational Safety and Health Administration. 1990. OSHA 3123, "Ergonomic Program Management Guidelines for Meatpacking Plants." Washington, D.C.:U.S. Government Printing Office.

2–14) U.S. Department of Labor. Occupational Safety and Health Administration. 1991. OSHA 3125, "Ergonomics: The Study of Work." Washington, D.C.:U.S. Government Printing Office.

2–15) U.S. Department of Labor. Occupational Safety and Health Administration. 1991. OSHA 3092, "Working Safely with Video Display Terminals (Revised)." Washington, D.C.:U.S. Government Printing Office.

2–16) Wynn, William, International President, United Food and Commercial Workers Union, AFL-CIO & CLC. "Petition for Emergency Temporary Standard on Ergonomic Hazards to Protect Workers from Work-Related Musculoskeletal Disorders (Cumulative Trauma Disorders)." Letter to Secretary of Labor Lynn Martin, July 31, 1991.

2–17) U.S. Department of Labor. 1991. Semiannual Regulatory Agenda. 56 FR 53558, 53592.

2–18) Clark, Roger, Director, Directorate of Safety Standards Programs. Request for Informal Comment. Letter to Ergonomic Community, June 20, 1991.

2–19) Occupational Safety and Health Reporter. 1991. "Risk for CTDs, Lower Back Disorders 'Significant' in Letter Sorting Machine Jobs," Bureau of National Affairs 20:1576.

2–20) U.S. Congress. House. Committee on Government Operations, Subcommittee on Employment and Housing, Hearings on Dramatic Rise in Repetitive Motion Injuries and OSHA's Response, June 6, 1989. Testimony of Alan C. McMillan, Deputy Assistant Secretary for Occupational Safety and Health, U.S. Department of Labor, 101st Cong., 1st sess..

2–21) Dainoff, M. 1989. "Repetitive Strain Injury (RSI), A Perspective," Center for Ergonomic Research, Miami (Ohio) University.

2–22) Fine, L. and B. Silverstein. 1986. "Detection of Cumulative Trauma Disorders of Upper Extremities in the Workplace," Journal of Occupational Medicine. 28:674.

2–23) U.S. Congress. House. Committee on Government Operations, Subcommittee on Employment and Housing, Hearings on Dramatic Rise in Repetitive Motion Injuries and OSHA's Response, June 6, 1989. Testimony of Dr. Testimony of Barbara A. Silverstein, Center for Ergonomics and School of Public Health, University of Michigan. 101st. Cong., 1st Sess.

2–24) U. S. Department of Health and Human Services. Public Health Service Centers for Disease Control. National Institute for Occupational Safety and Health. 1981. "Work Practice Guide for Manual Lifting," DHHS (NIOSH) Publication No. 81–122.

2–25) Snook, S. 1978. "The Design of Manual Handling Tasks," Ergonomics. 21:963–985.

2–26) University of Michigan. 1990. "2–D Static Strength Prediction Program," version 4.2 e. Ann Arbor:University of Michigan Software.

2–27) U.S. Department of Labor. Bureau of Labor Statistics. Recordkeeping Guidelines for Occupational Injuries and Illnesses, September 1986.

2–28) Martin, Lynn, Secretary, U.S. Department of Labor. Denial of Petition for Emergency Temporary Standard on Ergonomic Hazards to Protect Workers from Work-Related Musculoskeletal Disorders (Cumulative Trauma Disorders). Letter to William Wynn, International President, United Food and Commercial Workers Union, AFL-CIO & CLC, April 17, 1992.

2–29) *United Steelworkers of America v. Marshall,* 647 F.2d 1189 (D.C. Cir. 1980), *cert. denied,* 453 U.S. 913 (1981).

VI. Request for Comments and Information

Through this ANPR, OSHA invites interested persons and organizations to provide comments relating to the nature and extent of ergonomic hazards and disorders in the workplace. OSHA requests comments and information on the need for, content, extent, and scope of an ergonomic safety and health management regulation. OSHA has also presented a Glossary in Appendix A on which comment is requested. In addition, OSHA requests the submission of supportive information which would be needed for a proposed rule and also invites commentors to raise any other issues which may be relevant.

OSHA also invites comment pertaining to any economic considerations relating to the development of an ergonomic safety and health management standard, as discussed in this ANPR. For example, OSHA requests information on benefits to be achieved, such as changes in medical expenses, absenteeism, worker turnover, worker compensation payments, insurance rates, productivity, quality and the level of safety in work practices and environment. OSHA also requests information on the costs of implementing an ergonomic safety and health management standard, such as

workstation redesign, medical oversight, and changes in productivity and insurance costs.

OSHA requests that any available injury or illness data related to ergonomic disorders be provided. OSHA also requests that interested parties submit any pertinent data and risk estimates on ergonomic disorders not discussed in this ANPR. Specifically, scientific and technical data, and expert opinion are sought on the number of cases of ergonomic disorders, incidence rates, causes of ergonomic disorders, and costs of ergonomic disorders to employees, businesses, and society in general. OSHA also requests information attempting to explain the rise in incidence rates of ergonomic disorders; including work process changes (e.g., increased repetition or force due to changes in process or production demands), increased awareness of ergonomic hazards, and/or reporting changes. For comparative purposes, OSHA requests submission of studies and data on incidence rates of ergonomic disorders in other countries.

OSHA is considering whether to hold informal public meetings to permit oral presentations of additional comments, information, and data prior to the development of a regulation addressing ergonomic hazards. These meetings would serve as a public forum for interested parties to present their views in the early stages of this rulemaking. OSHA is considering public meetings to be held in Washington, D.C., as well as in other locations throughout the United States. OSHA requests comment on whether and where informal public meetings should be held.

OSHA will gather, review, and analyze available information on case studies, anecdotal data, and statistical data in which ergonomic hazards have been identified and successful corrective actions have been taken. The basic information sought in each case includes the ergonomic problem that needed resolution, the control measures taken to resolve the problem, the costs of these control measures, and the benefits gained by employees, employers and society. OSHA will seek this information from the National Institute for Occupational Safety and Health (NIOSH) Health Hazard Evaluation Reports, OSHA ergonomic settlement agreement results, OSHA consultation programs, Voluntary Protection Program activities, ANPR comments, as well as a variety of other data sources.

A. General

1. In Appendix A, OSHA has defined "ergonomics", "ergonomic hazards", and "ergonomic disorders" for the purpose of this ANPR. OSHA requests comments on these definitions. Please address the following in your comment.

a.) What working definitions are used for these concepts in the workplace? Please discuss your working definitions.

b.) What is the nature and extent of ergonomic hazards and disorders in your company or industry?

2. If necessary, OSHA is considering development of a generic or industry specific ergonomic hazard control standard that may include the following general components: 1) Records assessment and surveillance, 2) systematic analysis, 3) prevention and control, 4) health management, and 5) training and education. OSHA requests comment on this approach. Please address the following in your response.

a.) Should these components should be included in an ergonomic standard? Is this approach towards addressing ergonomic hazards feasible? (For definition of "feasible", see *United Steelworkers of America v. Marshall*, 647 F.2d 1189, (D.C. Cir. 1980), *cert. denied*, 453 U.S. 913 (1981) (Ex. 2–29); 54 FR 29142, 29144–50 (July 11, 1989). Is this approach effective?

b.) Are there other feasible approaches to addressing ergonomic hazards and disorders in the workplace? Are there other effective approaches? Please describe those approaches.

c.) What should be the scope, application, and content of an ergonomic safety and health management standard?

3. What criteria should be considered in determining whether an employer should be covered by a standard on ergonomic hazard control? For example, the following factors may be appropriate for initiating coverage under a standard include: Use of machines, tools, processes, etc., known to be ergonomic hazards; presence of recognized ergonomic stressors; incidence(s) of recorded disorders associated with repeated trauma; reports of signs or symptoms associated with ergonomic disorders. Please discuss these possible criteria and initiating mechanisms.

4. Should there be qualifications for individuals developing and/or implementing the various elements of an ergonomics program? Please discuss qualifications for each of the general components listed in question A.2.

a.) Should certain nationally recognized qualifications or training be required for such individuals?

b.) Should individuals developing and or implementing the elements of an ergonomics program be required to have specific training in ergonomic issues?

5. OSHA requests data and information on the prevalence, frequency, severity, and treatment of ergonomic symptoms and/or disorders in your occupation, company and/or industry. Please include numbers and cases in proportion to your employment population, if possible in your response to the following:

a.) In the last 5 years, how many and what percentage of employees have reported symptoms, such as pain or numbness, or have been diagnosed with an ergonomic disorder? If there has been an increase in reported symptoms, and or diagnosed cases, to what do you attribute the increase?

b.) What particular ergonomic disorders and/or symptoms have been reported?

c.) What portion of your company's recordable injuries or illnesses do the reported disorders comprise?

d.) In what jobs, work tasks, operations, work processes, and/or production methods (hereafter "jobs") in your company and/or industry do ergonomic hazards and stressors exist? What are the specific ergonomic hazards and/or stressors in each of these jobs? What symptoms or reported cases of ergonomic disorders have occurred in each of these jobs?

e.) What treatment or rehabilitation has been prescribed for those reported cases?

f.) In how many cases has treatment included surgery?

g.) In how many cases has surgery been effective in correcting or eliminating the ergonomic disorder?

h.) How many employees have undergone multiple and/or bilateral surgeries and have the ergonomic disorders been eliminated or corrected after multiple surgeries?

i.) What percentage of your employees have experienced more than a single type of symptom and/or ergonomic disorder?

j.) How many and what portion of these reported cases have resulted in permanent disabilities/conditions?

k.) How does your organization accommodate employees whose exposure to ergonomic hazards has resulted in permanent disability?

6. For employers who have initiated programs that address ergonomic hazards, please describe that program and who is included in developing and implementing the program (e.g., ergonomic team). Also, please provide written program material, if available. Please address the following in your response:

a.) How and by whom was the program developed and implemented, and what were their qualifications?

b.) What are the key components of your program?

c.) How many employees and what jobs are covered by your program?

d.) What factors contributed to the initiation of the program?

e.) Are employees who work in ergonomically hazardous jobs included in your ergonomics team?

f.) What results have been achieved utilizing an ergonomics team approach?

7. For employers who have implemented an ergonomics program, describe the benefits of this program? Wherever possible, please discuss those results in quantifiable terms such as: changes in the incidence of ergonomic disorders and employee complaints of pain and numbness, medical costs, absenteeism, insurance rates, employee turnover, worker compensation costs, lost-workday injuries, employee morale, productivity, quality, and earlier detection of ergonomic disorders.

8. Have the issues of quality and productivity levels been addressed under the program? Please provide data and examples to support your response.

a.) For employers who redesigned jobs and/or processes to prevent or eliminate ergonomic hazards, how has redesign affected productivity and/or quality?

b.) As a result of redesign has there been an increase in the number of employees able to perform a wider variety of job units (job enlargement) within the plant or company? Please explain your response.

c.) What benefits have been achieved through job enlargement?

9. What have the costs been of your ergonomics program? Wherever possible, please discuss those results in quantifiable terms such as: workstation redesign, medical oversight and changes in productivity, quality and insurance costs. Please address the following in your response:

a.) What have been the estimated cost of engineering and redesign measures, such as total redesign and workstation redesign, that have been implemented?

b.) For employers who have implemented job rotation, what costs have been associated with factors such as downtime to rotate, supervision, pay differentials, and administrative and medical oversight?

c.) For employers whose ergonomics program has included reduction of the number of repetitions or speed, what costs have been associated with this control measure?

10. For employers who utilize incentive pay or piecework systems, how are ergonomic issues addressed? Please describe your ergonomics program.

a.) Have the incentive pay or piecework operations been retained, redesigned, or altered under the ergonomics program? Please explain your response.

b.) Have the issues of productivity levels and quality under your operating system been addressed in implementing the ergonomics program? If so, how have these issues been addressed?

11. In developing an ergonomic safety and health management standard, are there any unique issues that must be considered when applying this regulation to maritime, agriculture, and construction industries?

12. In light of the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), OSHA requests comment regarding the impact that an ergonomics regulation might have on small businesses, including but not limited to compliance costs. Please provide relevant data and information to support your response.

a.) What specific considerations should be explored regarding small businesses?

b.) Would it be appropriate for the standard to include alternate provisions or partial exemptions for small employers, either within a single industry or across industries? If so, how? If not, why not?

13. OSHA requests commentors to provide the following industry profile information:

a.) What is the primary industrial activity or Standard Industrial Classification (SIC) code for your establishment?

b.) What principal product(s) and/or services does your company offer?

c.) Please describe your establishment in terms of employment, assets, annual sales, and annual production.

14. OSHA may hold informal public meetings prior to issuing a proposed rule in order to solicit additional comments, information, and data concerning the development of a ergonomic safety and health regulation. If held, on what issues should OSHA focus informal public meetings? Where should informal public meetings be held?

B. Systematic Analysis; worksite analysis and surveillance

1. How are jobs involving ergonomic hazards and/or stressors identified in your company and/or industry? If a systematic worksite analysis is conducted, please describe the elements of that program and what the analysis involves. Also, please provide any written materials or checklists about your systematic analysis, if available. In addition, OSHA requests the following be addressed in your response:

a.) How and by whom has the hazard analysis program been developed, conducted, supervised and reviewed?

b.) What factors should be considered in determining the frequency and prerequisites for requiring a systematic analysis of ergonomic stressors. For example, the following factors might be included: A reported ergonomic disorder; an employee complaint; hiring new employees; installing new equipment or tools; changes in production process, workstation or job; increases in production rates; and/or new exposure of employees to recognized hazards?

2. Can ergonomic hazards and disorders, including their location, adequately be identified through assessment of an employer's medical, safety, and insurance records as well as the OSHA–200 logs? Please explain your response. Where adequate assessment is not possible solely from such records, what additional action information would enable the employer to improve identification of ergonomic hazards and disorders?

3. What are the available methodologies or analyses for conducting a systematic analysis of specific ergonomic hazards and stressors? That is, how are ergonomic hazards and stressors best identified and measured?

a.) What factors must be considered and what criteria are necessary to adequately identify conditions that put employees at risk of developing ergonomic disorders?

b.) Should a choice from a menu of adapted or modified methods of system safety engineering or industrial engineering be an option for use by a team, in lieu of a systematic analysis certified by a professional?

C. Hazard Prevention and Control

1. What successful control measures have been implemented to prevent, eliminate, and reduce employee exposure to ergonomic hazards and stressors in your company and/or industry? Please provide data and information on those control measures on a operation by operation basis. In addition, please address the following in your response:

a.) What procedures, such as type of systematic analysis or industrial hygiene/engineering survey, have been used to determine necessary control measures?

b.) Have control measures been retrofitted in response to the need for immediate hazard control or implemented during routine process and workstation redesign and/or equipment replacement?

c.) How have control measures been evaluated to determine whether the identified ergonomic hazards have been eliminated and no additional hazards have resulted?

2. What methods of preventing, eliminating, and/or reducing ergonomic hazards have proven to be effective?

a.) What control measures exist to prevent, eliminate, and/or reduce stressful force, as well as the duration of such force?

b.) What control measures exist to prevent, eliminate, and/or reduce stressful or awkward posture and positioning, as well as the duration of such posture and positioning?

c.) What control measures and techniques exist to reorganize work or enlarge work, so that excessive repetitions are reduced?

d.) What mechanical devices and/or automation exist to prevent, eliminate, and/or reduce ergonomic hazards?

e.) What control measures and technologies have been or have the potential to be successfully transferred and implemented within and across industries?

3. Under what circumstances should job rotation be used as a primary method of control? Please explain your response and address the following in your response:

a.) For employers who have used job rotation as part of their ergonomics program, OSHA requests comment on how the job rotation program has been implemented and what factors initiated job rotation. Please provide data and information on the number and percentage of employees included in the program, the frequency and duration of rotation, and results of job rotation.

b.) Has rotation prevented and eliminated ergonomic disorders?

c. Has rotation reduced the duration, frequency, and severity of ergonomic disorders?

d.) In what kind of jobs has rotation proven to be effective or ineffective?

e.) Are there certain jobs or industries in which job rotation should not be used as a primary control method?

f.) What factors must be considered in identifying jobs and/or restricted duty assignments for a job rotation program?

g.) What should trigger job rotation and how often should employees be rotated?

h.) In what manner should job rotation take place? For example, how will the employer ensure that employees are rotated into jobs with nonparallel stressors and should health management be required for all employees involved in job rotation?

4. Under what circumstances should slowing down production rates and reducing the number of repetitions be used as means of eliminating or reducing ergonomic hazards and stressors? Please explain your response.

5. Under what circumstances should rest breaks be used as a primary method of control of ergonomic hazards? Please explain your response and address the following in your response:

a.) How frequently should rest breaks be given in order to be an effective method of controlling ergonomic hazards?

b.) What duration is necessary for rest breaks to be an effective control measure?

c.) Have rest breaks prevented or eliminated ergonomic disorders?

d.) Have rest breaks reduced the duration, frequency, and severity of ergonomic disorders?

e.) In what jobs have rest breaks proven to be effective or ineffective as a control method?

6. What preventive maintenance measures exist to decrease ergonomic hazards and stressors and how frequently must maintenance be undertaken?

7. Please describe and discuss medical devices and/or equipment such as gloves, splints, back belts, and braces, that have been used in jobs where ergonomic hazards and stressors exist?

a.) Have medical devices and equipment prevented or eliminated ergonomic disorders?

b.) Please provide data and evidence to support the effectiveness of medical devices and equipment, such as gloves, splints, back belts, and braces, in addressing ergonomic issues. In what jobs have those devices been effective?

c.) Are there certain devices that should not be allowed as an acceptable control measure for dealing with ergonomic hazards and their component stressors? Please explain your response.

8. Are there particular control measures that have been successful in preventing, eliminating, or reducing ergonomic hazards or stressors in jobs requiring repeated manual lifting? Please provide data and evidence to support your response.

a.) What manual lifting guidelines, such as the NIOSH "Work Practices Guide for Manual Lifting" (Ex. 2–24), the University of Michigan's "2–D Static Strength Prediction Program" (Ex. 2–25), or the Liberty Mutual Guidelines (Ex. 2–26), have you used? Please explain how you implemented or used those guidelines in your organization and what benefits have been achieved.

9. What has been the experience of employers using vibration measurement guidelines for monitoring employees who use vibrating tools and equipment?

10. For employers who have built new facilities and/or redesigned work stations and production processes, how have ergonomic considerations been included in those designs to prevent, eliminate, or reduce ergonomic stressors and hazards and/or to prevent the creation of new ergonomic hazards?

11. What criteria should OSHA use to determine whether an employer has adequately implemented hazard prevention and control measures to prevent, eliminate, and reduce exposure to ergonomic hazards and stressors.

D. Health Management

1. For employers who have implemented an ergonomic health management component as part of an ergonomic program, please describe that program. OSHA also requests that employers address the following in their response.

a.) What elements, such as periodic health assessment are included in the health management program?

b.) What employees and jobs are included in the program and why?

c.) Who conducts, supervises, and reviews the health management program?

d.) When is the baseline health assessment done, such as pre-employment or pre-assignment, and what factors or medical protocols are a prerequisite for this assessment?

e.) How often are additional periodic health assessments administered and what factors initiate this assessment?

2. Has your company encouraged employees to report early signs and/or symptoms of ergonomic disorders? If so, what means were used to invite employees to do this?

3. For employers who have implemented an ergonomic health management program, what rehabilitation and/or treatment programs are being used for employees who have developed ergonomic disorders? Please explain your program.

a.) Does your program include follow-up assessments of employees to determine whether the situation has been resolved or requires further treatment? Please describe your procedures or program for follow-up assessments.

b.) What is the frequency for such follow-up assessment and how was that frequency determined?

c.) If job reassignment is part of your rehabilitation or treatment program, please describe what criteria is used in job selection.

4. As part of the health management program, should initial and periodic health assessment be provided and what should these assessments include? Please explain your response.

a.) Please discuss whether initial health assessment should include symptom survey and/or physical examination.

b.) What should be the frequency for periodic health assessments and what factors should be considered in determining that frequency?

5.) Should health management include a provision where employees experiencing signs or symptoms and/or ergonomic disorders are transferred from the job with the afflicting ergonomic hazards to a job that does not have the same ergonomic stressors? What factors, issues, and criteria should be considered in initiating such a provision?

E. Training and Education

1. For employers who have implemented ergonomic training and education, please describe the program and how it was developed or acquired. Please address the following in their response.

a.) How many and what employees and jobs are included in the program?

b.) When and how often do employees receive job-specific ergonomic training or general ergonomic education?

c.) What training methods are used, for example: Videotapes, classroom instruction, and health and safety committee meetings?

d.) Have any specific training methods proven to be particularly effective in dealing with ergonomic problems?

e.) What job-specific training do employees receive to reinforce good work practices?

f.) Who conducts and supervises the training?

2. What other training and education resources and materials are currently available regarding ergonomic hazards?

a.) What organizations or industry and labor groups have developed and/or made available ergonomic training materials and resources?

b.) To whom are these resources made available?

c.) Are there other sources for ergonomic training and education instruction materials and resources?

3.) What should be the frequency of ergonomic training and education?

a.) What frequency of training is necessary to provide adequate reinforcement?

b.) Should training be provided annually? Please explain your response.

Public Participation

Written Comments and Information

Interested persons are invited to submit data, views, and arguments with respect to this advance notice of proposed rulemaking. These comments must be received by [insert 180 days after ANPR is published in the Federal Register] and submitted in quadruplicate to the OSHA Docket Office, Docket No. S–777, Occupational Safety and Health Administration, 200 Constitution Ave., N.W., Room N–2625, Washington, D.C. 20210, (202) 523–7894. Comments on the ANPR may not be sent by facsimile. Comments and information will be available for inspection and copying from 10 a.m. to 4 p.m., Monday through Friday, at the OSHA Docket Office at the address above.

All submissions in response to this ANPR, as well as other information gathered by the Agency, will be considered by OSHA in the development of a proposed standard addressing ergonomic hazards in the workplace.

List of Subjects in 29 CFR Part 1910

Business and Industry, Health Records, Labor, Medical Research, Occupational Safety and Health, Science and Technology

Authority and Signature

This document was prepared under the direction of Dorothy L. Strunk, Acting Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, 200 Constitution Avenue N.W., Washington, D.C. 20210. It is issued pursuant to section 6(b) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 655).

Signed at Washington, D.C. this 29th day of July, 1992.

Dorothy L. Strunk,

Acting Assistant Secretary of Labor.

APPENDIX A--GLOSSARY OF TERMS

A wide variety of terms are currently used by employers, occupational safety and health professionals and others in describing ergonomic issues and problems. The following definitions are provided to clarify the terms by OSHA in this ANPR. OSHA requests comments on these definitions.

Ergonomics. Ergonomics is the study of the design of requirements of work in relation to the physical and psychological capabilities and limitations of people; that is, ergonomics seeks to fit the job to the person rather than the person to the job. The aim of the discipline is to prevent the development of occupational disorders and to reduce the potential for fatigue, error, or unsafe acts through the evaluation and design of facilities, environments, jobs, tasks, tools, equipment, processes, and training methods to match the capabilities of specific workers.

Ergonomic hazards. Ergonomic hazards refer to a combination of stressors or workplace conditions that may cause harm to the worker. Improperly designed workstations, tools, and equipment; improper work methods; and excessive tool or equipment vibration are examples of this type of hazard. Other examples stem from job and process design problems that include aspects of work flow, line speed, posture, force required, work/rest regimens, and repetition rates.

Ergonomic disorders. Ergonomic disorders (EDs) are the range of health disorders arising from repeated stress to the body due to exposures to ergonomic hazards. These disorders may affect the musculoskeletal, nervous, and neurovascular systems. EDs include the various occupationally induced cumulative trauma disorders, cumulative stress injuries, and repetitive motion disorders.

A main distinction between EDs and strain or sprain injuries is that the latter usually result from a single act, such as acute trauma. EDs, on the other hand, develop gradually over periods of weeks, months, and years and there are few if any distinctive or dramatic features surrounding their onset. EDs include damage to the tendons, tendon sheaths, synovial lubrication of the tendon sheaths, bones, muscles, and nerves of the hands, wrists, elbows, shoulders, necks, backs, and legs. Some of the more frequently occurring occupationally induced EDs include chronic back pain, carpal tunnel syndrome, DeQuervains disease, epicondylitis (tennis elbow), Raynaud's syndrome (white finger), synovitis, stenosing tenosynovitis crepitans (trigger finger), tendonitis, and tenosynovitis.

Ergonomic stressors. Ergonomic stressors are regarded as synergistic elements or functional subunits of ergonomic hazards, of which one or more can combine to constitute an ergonomic hazard. Exposure to jobs, operations, processes, or workstations that have multiple stressors decreases

the latency of the onset of ergonomic disorders, depending upon the relative intensity, duration, frequency, and combination of each stressor contributing to the ergonomic hazard. Examples of ergonomic stressors include repetitiveness of activity or motion; excessive or required force or grip in performing an activity; awkward, static, or prolonged positioning of the body; vibration; and lighting conditions.

Systematic approach or systems approach. A systems approach to safety and health management means a comprehensive program by the employer that addresses workplace processes, operations, and conditions as interdependent systems to identify, evaluate, prevent, eliminate, or reduce all types of hazards to employees. A comprehensive program to address complex problems, such as the presence of a variety of ergonomic stressors in the workplace, may require the integration of a combination of solutions.

Systematic analysis. Systematic analysis is a holistic, quantitative, and qualitative evaluation process for investigating ergonomic stressors and hazards in the workplace. This process describes and evaluates employee exposures to equipment, jobs, processes, workstations, and tasks, and determines the extent to which exposures are or may become hazardous. In ergonomics, this analysis focuses on the stressors that result from the relationship between employees, their jobs, and the work processes. Systematic analysis also includes determining a plan for controlling those hazards.

A systematic analysis of exposures to ergonomic stressors is initiated by identifying tasks that, based on an assessment of company records, employee surveys and/or surveillance; require further hazard characterization. Specific behaviors required of persons performing a task, job, process, or operation are then observed, described and evaluated. This analysis includes the examination of the relationship between the job in question and other job-units in the production process, so that, for example, alternate methods of production may be substituted for the hazardous one. The objective of this step-by-step analysis is to determine if and where the limits of human capability have been exceeded. Techniques of step-by-step analysis include those commonly used in industrial engineering and system safety engineering, such as fault tree analysis or job hazard analysis.

Ergonomic surveillance. Ergonomic surveillance is the ongoing systematic collection, assessment, and interpretation of health, incidence, and exposure data in the process of describing and monitoring the circumstances which may be related to ergonomic hazards or the presence thereof. Ergonomic surveillance data, augmented by other sources of information, can be used to assess the need for occupational safety and health action and to assist in planning, implementing, and evaluating ergonomic programs and early interventions.

Health management. Health management, often referred to as medical management, is a component of a managerial system approach to ensure early identification, evaluation, and treatment of signs and symptoms of ergonomic disorders and to aid in the prevention of ergonomic disorders or symptoms. Health management is broader in scope than medical surveillance provisions in other OSHA standards. While health management encompasses traditional medical surveillance, it also involves, among other things, the participation of trained health care providers in periodic workplace walk- throughs and follow-up assessments of workers who have developed signs and symptoms of ergonomic disorders.

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CFR PARTS AFFECTED DURING AUGUST

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

LIST OF PUBLIC LAWS

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws**.

Last List July 29, 1992

CFR CHECKLIST

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[3] The July 1, 1985 edition of 41 CFR Chapters 1–100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.

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August 5	August 20	September 4	September 21	October 5	November 3
August 6	August 21	September 8	September 21	October 5	November 4
August 7	August 24	September 8	September 21	October 6	November 5
August 10	August 25	September 9	September 24	October 9	November 9
August 11	August 26	September 10	September 25	October 13	November 9
August 12	August 27	September 11	September 28	October 13	November 10
August 13	August 28	September 14	September 28	October 13	November 12
August 14	August 31	September 14	September 28	October 13	November 12
August 17	September 1	September 16	October 1	October 16	November 16
August 18	September 2	September 17	October 2	October 19	November 16
August 19	September 3	September 18	October 5	October 19	November 17
August 20	September 4	September 21	October 5	October 19	November 18
August 21	September 8	September 21	October 5	October 20	November 19
August 24	September 8	September 23	October 8	October 23	November 23
August 25	September 9	September 24	October 9	October 26	November 23
August 26	September 10	September 25	October 13	October 26	November 24
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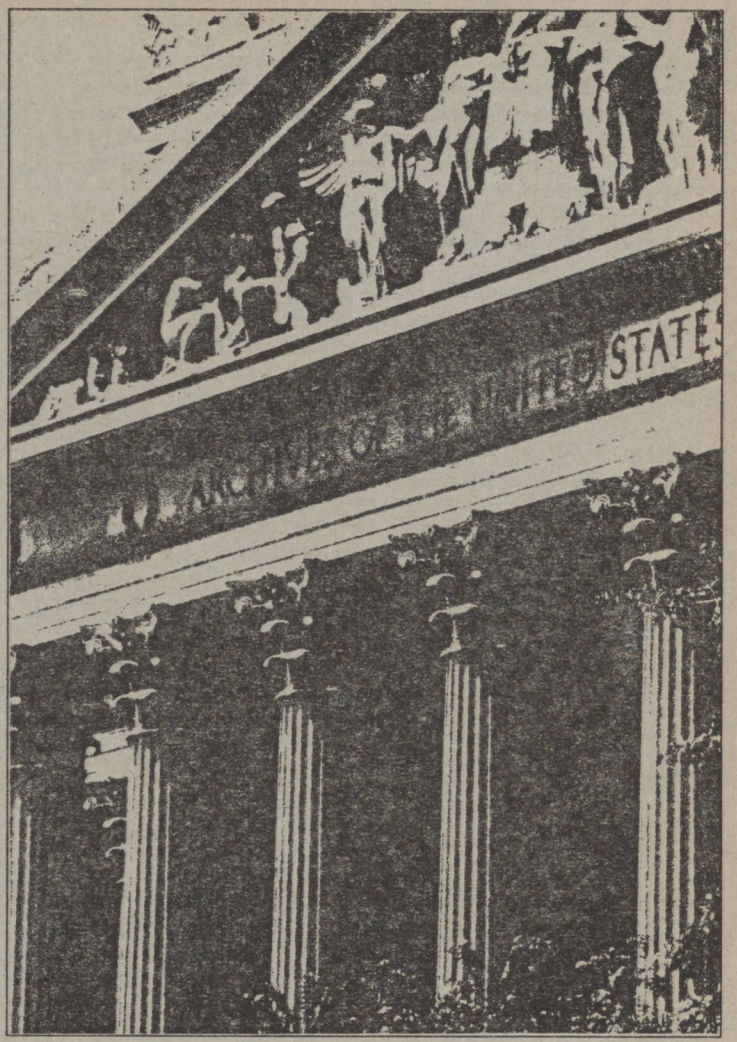

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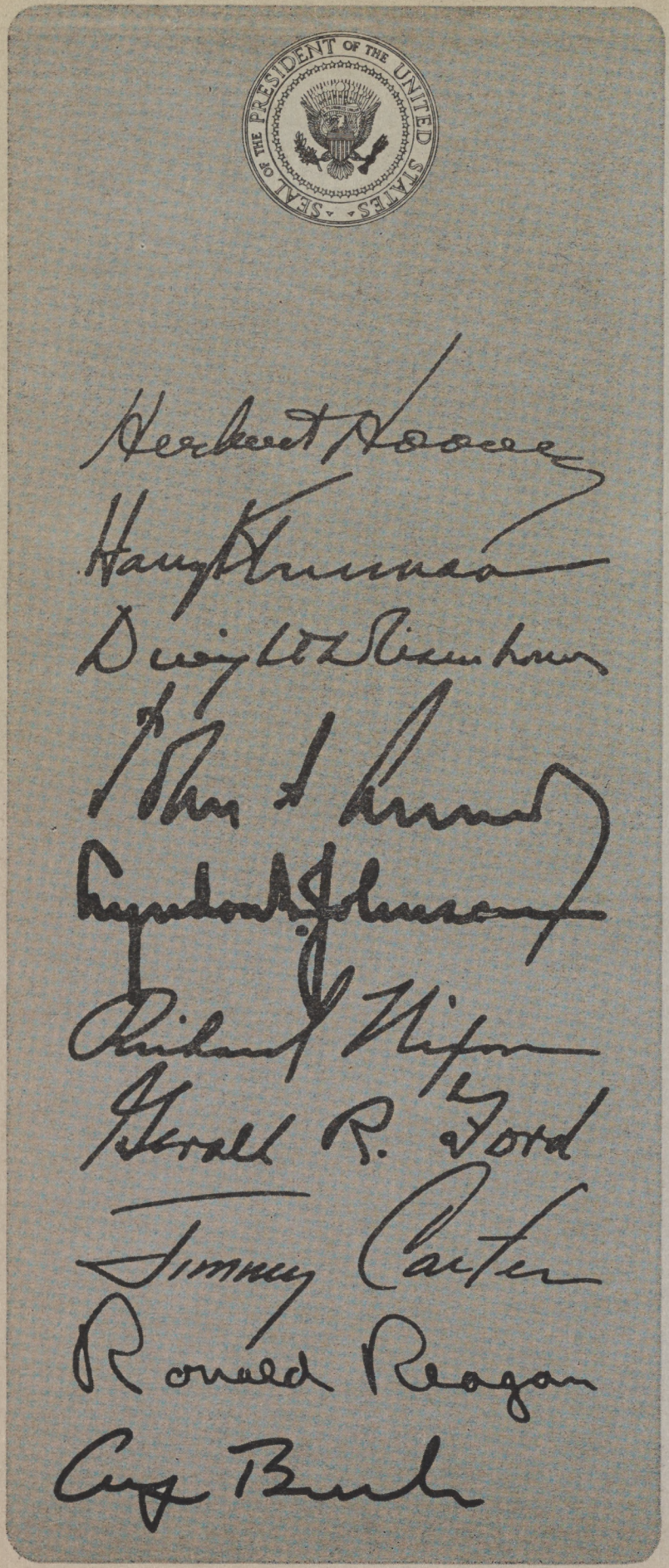

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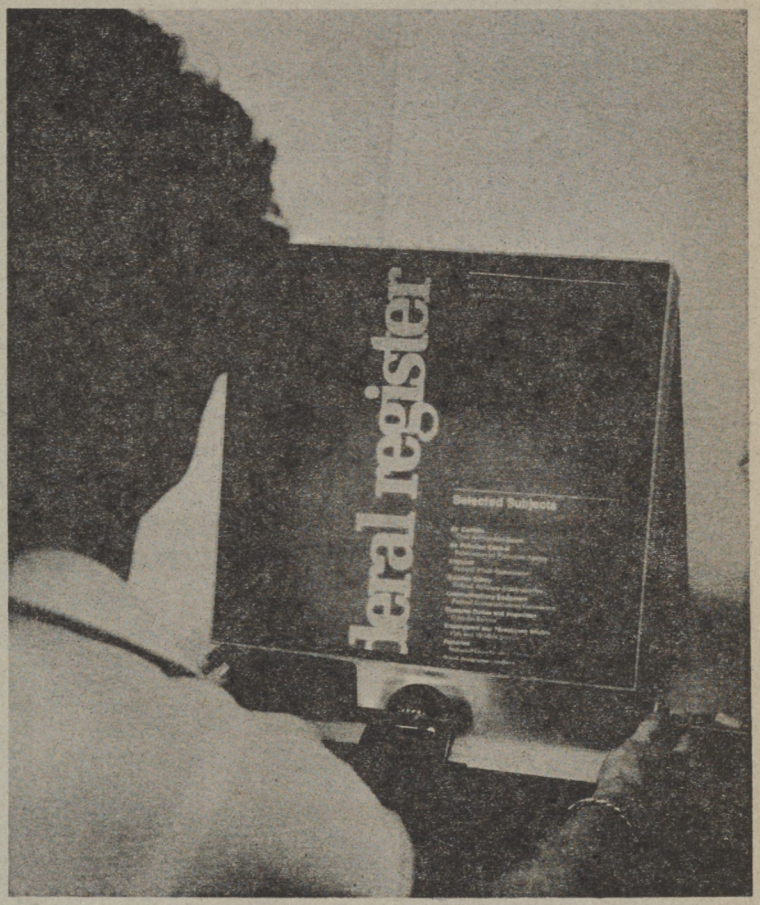

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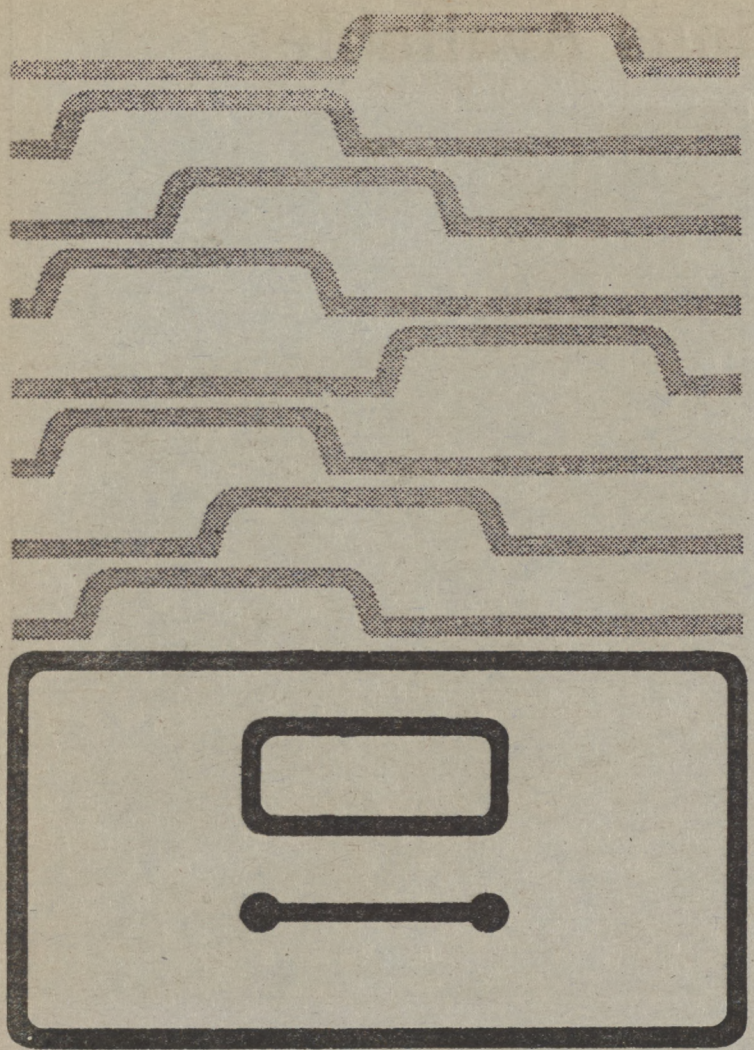

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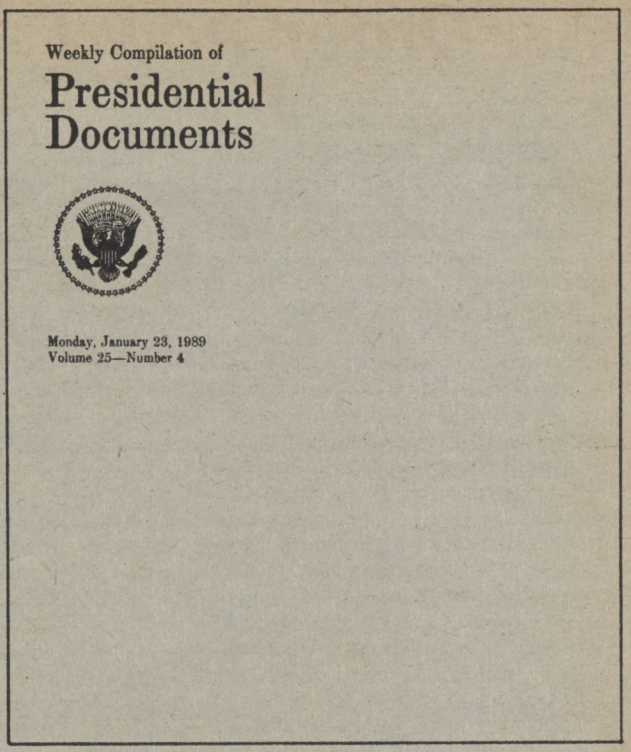

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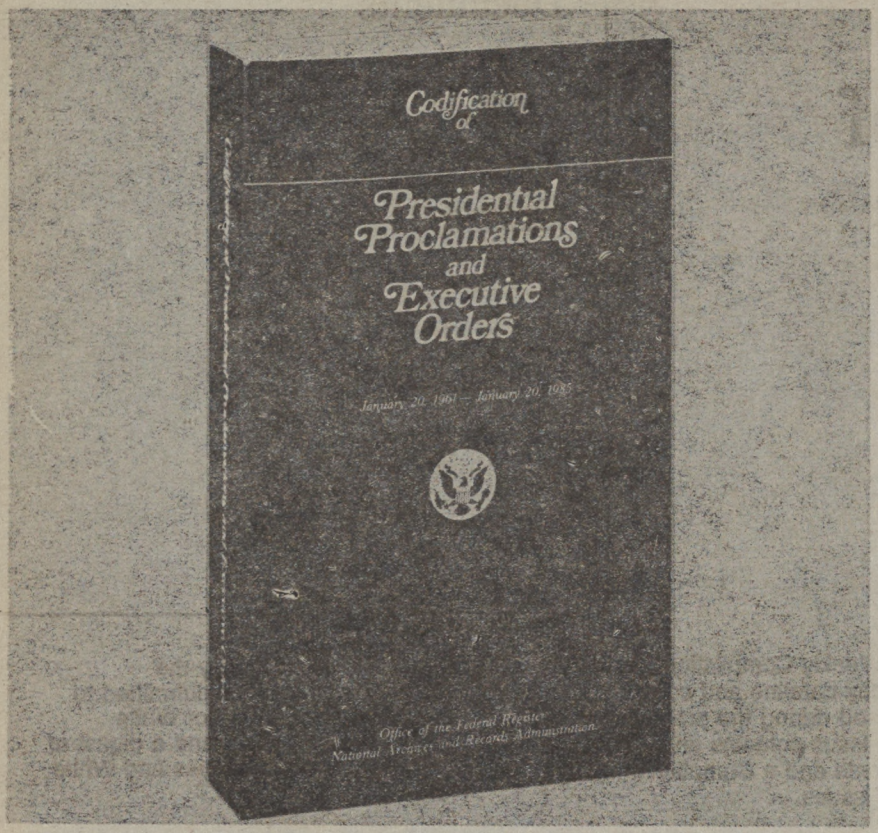

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