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

NUCLEAR REGULATORY COMMISSION

10 CFR Part 35

Public Meeting on the Quality Management Program and Misadministrations Rule; Meeting

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of meeting and request for comment.

SUMMARY: The Nuclear Regulatory Commission (NRC) will convene a meeting with the American College of Nuclear Physicians (ACNP) and the Society of Nuclear Medicine (SNM) and other professional organizations within the medical community having an interest in the implementation of the Quality Management Program and Misadministrations Rule (the Rule), to provide an explanation of the Rule language and the information collection and reporting requirements imposed by the rule. This will include a discussion of 10 CFR part 35, §§ 35.2, 35.32, and 35.33; Regulatory Guide 8.33; contractor guidelines for reviewing submitted Quality Management (QM) programs; and the interim inspection guidance and enforcement policy. Time will be made available for comments and discussion by representatives of other professional organizations participating in the meeting. Following this, the ACNP will describe their Practice Audit Program and how it might fit into the implementation of the requirements of the Rule.

DATES: The meeting will be held between 8:30 a.m. and 5:30 p.m., on November 9, 1992.

ADDRESSES: Marriott Airport—Dulles, 333 West Service Road, Chantilly, Virginia 22021.

Comments: Submit comments to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

FOR FURTHER INFORMATION CONTACT: Larry W. Camper, Office of Nuclear Material Safety and Safeguards, MS 6-H-3, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Telephone (301) 504-3417.

SUPPLEMENTARY INFORMATOIN: On August 12, 1992, the Commission voted unanimously to override the Office of Management and Budget's (OMB's) disapproval of the information collection requirements associated with the Rule. In a letter dated August 14, 1992, to James B. McCrae, Jr., of OMB, James M. Taylor, Executive Director for Operations, NRC, stated that the NRC would hold a public workshop with the medical community and other interested parties, to assure that there is a mutual understanding as to the intent of the Rule, especially the information collection requirements, and to discuss effective implementation.

In addition to the ACNP and SNM, other professional organizations, such as those representing hospital administrators, physicians, physicists, dosimetrists, technologists, and other related professionals that may be affected by the rule, are being invited and will participate in a discussion outlining implementation of the rule.

The NRC staff will discuss the definitions and requirements of the rule with emphasis on clarifying any misunderstandings that may exist with regard to the information recordkeeping and reporting requirements of the rule. Inspection guidance in the form of a temporary instruction and interim field notes has been prepared along with an interim revision to the enforcement policy for the Rule. The performance-based inspection program and enforcement policy will be presented to the meeting participants and comments will be invited for consideration before the staff finalizes the guidance for submission to the Commission. There will be time for questions and answers throughout the meeting.

The staff, in a letter dated September 8, 1992, informed ACNP that there would be an opportunity during this meeting to discuss ACNP's Practice Audit Program and its potential utility for satisfying some or all of the requirements of the rule. Representatives of ACNP will make this presentation during the afternoon session. Additionally, there will be a period during the afternoon session where other organizations can make remarks about similar self-auditing or voluntary quality assurance programs within their respective organizations.

Conduct of the Meeting

John E. Glenn, Ph.D., will chair the meeting, Dr. Glenn will conduct the meeting in a manner that will facilitate the orderly conduct of business. The following procedures apply to public participation in the meeting:

1. Persons may submit written comments by sending a reproducible copy to the Secretary of the Commission (see "Comments" heading). Comments must be received by November 4, 1992, to ensure consideration at the meeting. The transcript of the meeting will be kept open until November 16, 1992, for inclusion of written comments.

2. Persons who wish to make oral statements should inform Mr. Camper, in writing, by November 4, 1992. Statements must pertain to the topics at hand. The Chairman will rule on requests to make oral statements. Opportunity for members of the public to make oral statements will be based on the order in which requests are received. In general, oral statements should be limited to approximately 5 minutes. Oral statements must be supplemented by detailed written statements, for the record. Rulings on who may speak, the order of presentation, and time allotments may be obtained by calling Mr. Camper, (301) 504-3417, between 9 a.m. and 5 p.m. e.s.t., on November 5, 1992.

3. The transcript, minutes of the meeting, and written comments will be available for inspection, and copying for a fee, at the NRC Public Document Room, 2120 L Street, NW., Lower Level, Washington, DC 20555, on or about November 23, 1992.

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

Dated: October 16, 1992.

John E. Glenn,

Chief, Medical, Academic, and Commercial Use Safety Branch, Division of Industrial and Medical Nuclear Safety, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 92-25721 Filed 10-22-92; 8:45 am]

BILLING CODE 7590-01-M

SMALL BUSINESS ADMINISTRATION

13 CFR Part 102

Freedom of Information Act; Disclosure of Information

AGENCY: Small Business Administration.

ACTION: Final rule.

SUMMARY: This final rule revises the Agency's regulations implementing the Freedom of Information Act (FOIA). The changes bring the regulations into conformance with changes in FOIA law and Executive Order 12600 on the release of Business Information.

EFFECTIVE DATE: November 23, 1992.

FOR FURTHER INFORMATION CONTACT: Beverly Linden, Chief, FOI/PA, (202) 653-6460.

SUPPLEMENTARY INFORMATION: These amendments to SBA's FOIA regulations address a number of issues which have arisen in the course of SBA's administration of the FOIA. The regulations also implement the procedures mandated by Executive Order 12600 for handling requests for business information.

The proposed rule was published in the **Federal Register** October 21, 1991, 56 FR 52482. The public should consult the preamble published with the proposed rule for an explanation of the proposed regulations and a section-by-section analysis.

SBA received one comment on the proposed rule from a group representing journalists. The comment expressed the group's belief that the proposed § 102.3(j) would lead agency personnel to routinely withhold information under Exemption (b)(6) even though such information did not actually affect the personal privacy of individuals. Further, the comment stated that the proposed rules would violate the statutory time limit for responding to a FOIA request by allowing excessive time for submitters of business information to respond to proposed releases of information. The comment also suggested that SBA waive fees of less than $25.00, instead of less than $8.00, as provided in the proposed rule. Finally, the comment recommended that SBA develop an appeals process for FOIA requests by which an SBA official other than the official who responded to an initial request would decide any appeal.

SBA has carefully considered these comments and offers the following response. First, the comment on the proposed change to § 102.3(j) misconstrues the point of the amendment. The previous section totally prohibited the release of mailing lists. The amendment recognizes that recent FOIA case law has permitted the withholding of mailing lists under exemption (b)(6) only when their release would constitute an unwarranted invasion of personal privacy. The new section limits the exemption to addresses of individuals and explicitly adopts the standard of exemption (b)(6) of clearly unwarranted invasion of personal privacy for withholding information. The final rule drops the flat prohibition against commercial solicitation and simply states that SBA will not make available names and addresses for purposes not in the public interest. Therefore, the new section will not lead to the withholding as private of information the disclosure of which would not actually invade personal privacy, and need not be changed.

Second, the time limits in the pre-notification procedures (§ 102.5) reflect government-wide guidance from the Office of Management and Budget. SBA acknowledges that there is a tension between the requirements of Executive Order 12600 on prenotification and the ten-day time limit in the statute for responding to requests for information. If the agency does not respond to a requester within ten days, the requester does have the right to sue to obtain the information. However, the two mandates are not necessarily inconsistent. The final rule provides that the office responding to the request will notify the requester of the delay necessitated by the pre-notification process. The office will further inform the requester that it may either consider this delay a denial of access, and appeal or seek judicial review of the decision, or grant a voluntary extension of time so that the office may review the submitter's objections, if any, to disclosure. Notifications, may, if handled expeditiously, be completed in time to respond to requests within ten days. SBA is committed both to complying with the disclosure requirements of FOIA, and to providing submitters of information the opportunity to object to disclosure called for in the Executive Order. SBA believes that this final rule harmonizes the two requirements.

On the question of fees, SBA has surveyed other agencies of similar size, and concludes that a waiver of fees of $15.00 or less is an appropriate figure. The regulations have been amended to reflect this change.

With regard to the question of appeals, SBA previously established and already uses a review and appeals process, consistent with the statute. Initial requests are handled by the SBA offices which are the custodians of the requested information, while appeals are handled by the FOIA appellate office. Thus appeals are decided by an SBA official other than the individual who responds to the initial request. The appellate office has occasionally handled requests at the initial level, when warranted, but only with the requester's assent, or where there is a specific reason to do so, and when the purposes of the FOIA are best served by doing so. SBA reserves the right to continue to do this, on those occasions when it is warranted. In these cases, the final rule establishes that the appeal from requests handled by the FOIA appellate office shall be to the Assistant Administrator for Hearings and Appeals.

The final rule further provides that the Associate General Counsel for Litigation will directly advise offices on all Civil and Criminal subpoenas served upon the agency and its present and former officials. In the case of subpoenas in criminal matters, the Associate General Counsel may consult with the Inspector General. This change centralizes the handling of subpoenas, for greater efficiency and uniformity of response.

Finally, the final rule changes the amendment to redesignated § 102.4(e), to establish a definitive cutoff date for determining the universe of records to be considered in determining what records are responsive to a request. This clarifies a point of confusion in the earlier regulations.

Compliance With Regulatory Flexibility Act, Executive Orders 12291 and 12612 and the Paperwork Reduction Act

SBA certifies that this final rule will not have a significant economic impact on a substantial number of small entities. SBA states that this is because the rule is one of agency organization, procedure and practice.

SBA certifies that this final rule will not constitute a major rule for purposes of Executive Order 12291, because it is unlikely to have an annual economic impact of over $100 million. The impact will be solely on the agency's handling of FOIA requests, and SBA does not expect that this will entail greater costs for any requesters.

SBA certifies that this final rule will not pose any new reporting or recordkeeping requirements subject to the Paperwork Reduction Act, 44 U.S.C. chapter 35.

SBA also certifies that this final rule will not have federalism implications warranting preparation of a Federalism Assessment in accordance with Executive Order 12612.

List of Subjects in 13 CFR Part 102

Disclosure of Information; Freedom of Information.

For the reasons set forth above, title 13, chapter I, part 102, subpart A of the Code of Federal Regulations is amended to read as follows:

PART 102—[AMENDED]

1. The authority citation for part 102, Subpart A—Disclosure of Information, is amended to read as follows:

Authority: The Freedom of Information Act (5 U.S.C. 552), as amended; the Paperwork Reduction Act (44 U.S.C. 3501 *et seq*); the Privacy Act of 1974 (5 U.S.C. 552a); 18 U.S.C. 4203 (a)(1); the Budget and Accounting Act of 1921 (31 U.S.C. 1 *et seq*); the Budget and Accounting Procedures Act (31 U.S.C. 67 *et seq*); Executive Order 12600, 52 FR 23781 (1987).

2. Section 102.2(b) is revised to read as follows:

§ 102.2 Scope.

* * * * *

(b) Moreover, this part deals with the availability of information to the public, including parties involved in litigation affecting the agency.

3. Section 102.3, *Information and records available to the public and exempt from disclosure*, is amended by removing paragraph (b)(2)(vi); redesignating paragraph (b)(2)(vii) through (b)(2)(ix) as (b)(2)(vi) through (b)(2)(viii), respectively and revising paragraph (j) to read as follows:

§ 102.3 Information and records available to the public and exempt from disclosure.

* * * * *

(j) *Mailing lists.* The Agency considers exempt from public disclosure as an unwarranted invasion of personal privacy the names and addresses of individuals included in mailing lists of its clientele, employees, advisory councils, and other persons and organizations involved with or dealing with the Agency. The Agency will not distribute, sell, or otherwise make available the names and addresses of such information for purposes not clearly in the public interest.

* * * * *

4. Section 102.4, *Public access to information and records*, is amended by:

(a) Removing paragraph (e), redesignating paragraph (f) as paragraph (e);

(b) Revising newly redesignated paragraph (e)(2); and

(c) Adding new paragraph (e)(3) as follows:

§ 102.4 Public access to information and records.

* * * * *

(e) * * *

(2) *Notice of denial of request.* A denial of a request or any part thereof under this paragraph must be in writing, and must advise the requester of a right to appeal to the Chief, Freedom of Information/Privacy Acts Office, (Chief, FOI/PA), Small Business Administration, 409 Third Street, SW., Washington, DC 20416. The notice of denial must contain the names and titles or positions of each person responsible for the denial of the request. The notice of denial shall also state that an appeal must be submitted no later than 45 calendar days after the date of the notice of denial, and must be made by letter or other written communication containing a description of the information requested, the name and place of employment of the SBA official or employee who denied the request, the reason, if any, given for the denial, and such other pertinent facts as the requester deems appropriate.

(3) *Date for determining responsive records.* In determining the universe of records to be reviewed for its determination of which records are records responsive to a request, an office will include only those records within the office's possession and control as of the date of the receipt of the request.

§§ 102.5 through 102.7 Redesignated as §§ 102.6 through 102.8

5. Sections 102.5 through 102.7 are redesignated as § 102.6 through 102.8, and the following new § 102.5 *Business information*, is added, to read as follows:

§ 102.5 Business information.

(a) *General.* Business information provided to the Small Business Administration by a submitter shall not be disclosed pursuant to a Freedom of Information Act request except in accordance with this section.

(b) *Definitions.* The following definitions are used in reference to this section:

(1) *Business information* is a trade secret, or commercial or financial information provided to the SBA by a submitter that arguably is protected from disclosure under Exemption 4 of the Freedom of Information Act, 5 U.S.C. 552(b)(4).

(2) *Office* refers to the particular office within SBA which receives and responds to a FOIA request at the initial level.

(3) *Submitter* is any person or entity who provides business information, directly or indirectly, to the SBA. The term includes, but is not limited to, participating lenders, SBA borrowers, SBA program participants, corporations, state governments, and foreign governments.

(c) *Notice to submitters.* An office shall, to the extent permitted by law, provide a submitter with prompt written notice of a Freedom of Information Act request or administrative appeal encompassing its business information whenever required under paragraph (d) of this section, except as provided for in paragraph (i) of this section, in order to afford the submitter an opportunity to object to disclosure pursuant to paragraph (f) of this section. Such written notice shall either reasonably describe the business information requested or provide copies of the records or portions thereof containing the business information. The requester also shall be notified that notice and opportunity to object are being provided to a submitter.

(d) *When notice is required.* Notice shall be given to a submitter whenever an office intends to disclose information and:

(1) The information has been designated reasonably and in good faith by the submitter as information deemed protected from disclosure by Exemption 4; or

(2) The office has reason to believe that the information may be protected from disclosure under Exemption 4. No notice to the submitter is necessary when an office determines that it will not disclose the information.

(e) *Designation of Business Information.* Submitters of business information shall use reasonable, good-faith efforts to designate, by appropriate markings, either at the time of submission or at a reasonable time thereafter, those portions of their submissions which they believe to be protected from disclosure under Exemption 4. Such designations shall be deemed to have expired ten years after the date of submission unless the submitter requests, and provides reasonable justification for, a designation period of greater duration.

(f) *Opportunity to object to disclosure.* Through the notice described in paragraph (c) of this section, an office shall afford a submitter a period of five business days from the date of the said notice within which to provide the office with a detailed written statement of any objection to disclosure. The Agency may extend the five-day time period in individual cases where the Agency determines that the complexity or volume of the subject information necessitates such an extension. Such statement shall specify all grounds for withholding any of the information

under any exemption of the Freedom of Information Act and, in the case of Exemption 4, shall demonstrate why the information is considered to be a trade secret or commercial or financial information that is privileged or confidential, by showing how substantial competitive harm could result from disclosure. Whenever possible, the submitter's claim of confidentiality should be supported by a statement or certification by an officer or authorized representative of the submitter. Information provided by a submitter pursuant to this paragraph may itself be subject to disclosure under FOIA. When notice is given to a submitter under paragraph (c) of this section, the office will advise the requester that notice has been given to the submitter of the information requested. The office will also advise the requester that there will be a delay in its decision of whether to grant or deny access to the information sought. The requester will be further advised that this delay by SBA may be considered a denial of access to the records and that the requester may proceed with an administrative appeal or seek judicial review, if appropriate. However, the requester may agree to a voluntary extension of time so that the office may review the submitter's objections to disclosure, if any.

(g) *Notice of intent to disclose.* An office shall consider carefully a submitter's objections and specific grounds for nondisclosure prior to determining whether to disclose business information. Whenever an office decides to disclose business information over the objection of a submitter, the office shall forward to the submitter a written notice which shall include:

(1) A statement of the reasons for not sustaining the submitter's disclosure objections;

(2) A description of the business information to be disclosed; and

(3) A specified disclosure date.

Such notice of intent to disclose shall be forwarded to the submitter at least five business days prior to the specified disclosure date and the requester shall be notified likewise.

(h) *Notice of FOIA lawsuit.* Whenever a requester brings suit seeking to compel disclosure of business information, the office shall promptly notify the submitter.

(i) *Exceptions to notice requirements.* The notice requirements of paragraph (c) of this section shall not apply if:

(1) The office determines that the information should not be disclosed;

(2) The information has been published lawfully or has been officially made available to the public;

(3) Disclosure of the information is required by law (other than 5 U.S.C. 552); or

(4) The designation made by the submitter in accordance with paragraph (e) of this section is frivolous; except that, in such case, the office shall provide the submitter with written notice of any final administrative decision to disclose business information at least five days prior to a specified disclosure date.

6. Newly redesignated § 102.6 is amended by revising paragraphs (a) through (e)(1) to read as follows:

§ 102.6 Administrative appeal to refusal to disclose.

(a) *Who may appeal.* Any person whose request for information or records has been denied may submit a written appeal to the Agency. A failure by the Agency to act on a request within the time limit imposed by § 102.4(e) of this part shall be deemed a denial for purposes of appeal.

(b) *When an appeal must be submitted.* An appeal from a notice of denial of a request for information or records must be submitted no later than 45 calendar days after the date of the notice of denial.

(c) *Form of appeal.* While no particular form is prescribed, the letter or other written statement used for such purpose shall contain a description of the information or record requested, the name and place of employment of the SBA official or employee who denied the request, the reason, if any given for the denial, and other pertinent facts and statements as the appellant may deem appropriate. SBA may request additional details where the information submitted is insufficient to support a decision.

(d) *Where to appeal.* Appeals shall be addressed to the Chief, Freedom of Information/Privacy Acts Office, (Chief, FOI/PA), Small Business Administration, 409 Third Street, SW., Washington, DC 20416.

(e) *Agency decision*—(1) *Who decides.* Final agency decisions on appeals from refusals to disclose information handled by Agency officials other than the Office of FIO/PA on an initial basis shall be made by the Chief, FOI/PA, who shall promptly review each appeal and provide appellant and other interested parties, if any, with a written notice of decision. Final agency decisions on appeals from refusals to disclose information in the case of those requests handled on an initial basis by the Chief, FIO/PA shall be made by the Assistant Administrator for Hearings and Appeals.

* * * * *

7. Newly redesignated § 102.7 is amended by revising paragraph (b)(6) to read as follows:

§ 102.7 Fees.

* * * * *

(b) * * *

(6) *Restrictions on assessing fees.* The Agency office processing a FOIA request shall be responsible for assessing the fees on that request. With the exception of requesters seeking documents for commercial use, section 4(a)(iv) of the Freedom of Information Act, as amended, requires SBA to provide the first 100 pages of duplication and the first two hours of search time without charge. Moreover, this section prohibits SBA from charging fees to any requesters, if the cost of collecting the fee would be equal to or greater than the fee itself. These provisions, read together, mean that except for commercial use requesters, SBA would not begin to assess fees until after it had provided the free search and reproduction. For example, for a request that involved two hours and ten minutes of search time and resulted in 105 pages of documents, SBA would determine the cost of only ten minutes of search time and only five pages of reproduction. All fees assessed at $15 or less will be waived.

* * * * *

8. Newly redesignated § 102.8 is revised to read as follows:

§ 102.8 Appearances and testimony by SBA officers and employees.

Whenever an officer or employee of SBA is served with a subpoena, whether state or federal, including grand jury subpoenas, demanding the disclosure of the information or the production of files, documents and records described in this part or is requested by any court, committee or other body to disclose such information, the officer or employee shall promptly inform his or her superior of the requirements of the subpoena or request and shall ask for instructions from the Associate General Counsel for Litigation in the Office of General Counsel or his or her designee. Such officer or employee shall appear before the court, committee or body and, if the Associate General Counsel for Litigation, after consultation with the Agency's Inspector General when the matter is criminal in nature, has not authorized disclosure, the employee shall respectfully decline to disclose the information or produce the files, documents and records demanded or

requested, explicitly basing such refusal upon this part.

Dated: September 28, 1992.

Patricia Saiki,

Administrator.

[FR Doc. 92-25682 Filed 10-22-92; 8:45 am]

BILLING CODE 8025-01-M

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13 CFR Part 122

Business Loans; Microloan Demonstration Program

AGENCY: Small Business Administration.

ACTION: Interim final rule with request for comments.

SUMMARY: On September 4, 1992, the President signed the Small Business Credit and Business Opportunity Enhancement Act of 1992 (Act). The Act made a number of substantive amendments to the Small Business Administration's (SBA's) Microloan Demonstration Program. This interim final rule implements those changes.

DATES: This rule is effective October 23, 1992. Comments must be received on or before November 23, 1992.

ADDRESSES: Written comments should be addressed to John Cox; Director, Office of Financing; U.S. Small Business Administration; 409 Third Street SW.; Washington, DC 20416.

FOR FURTHER INFORMATION CONTACT: Michael J. Dowd; Chief, Loan Policy and Procedure Branch; (202) 205-6490.

SUPPLEMENTARY INFORMATION: Section 7(m) of the Small Business Act, 15 U.S.C. 636(m), added by Public Law 102-140, authorizes SBA to undertake a Microloan Demonstration Program (Program). Under the Program, SBA makes direct loans to qualified intermediary lenders who use the proceeds to make short-term, fixed interest rate microloans, of not more than $25,000, to startup, newly established or growing small business concerns. Further, SBA may make grants to such intermediaries to be used to provide intensive marketing, management, and technical assistance (hereinafter collectively referred to as "T/A") to any microloan borrower. Subtitle B of title I of Public Law 102-366, enacted on September 4, 1992, made several major revisions, as well as technical amendments, to the structure and operation of the Program. This interim final rule implements those changes.

Public Law 102-366 amends the criteria by which SBA chooses applicants to be qualified as intermediaries in the Program. First, there is established in the law a new preference for intermediaries which make very small loans. Specifically, in selecting intermediaries to participate in the Program, priority is to be given to those applicants that provide loans in amounts averaging not more than $7,500. SBA interprets this provision of the law to provide a preference to those applicants which have, in their prior microlending experience and prior to the date of their application to the Program, made loans averaging $7,500 or less. (For ease of reference, intermediaries which maintain a portfolio of microloans averaging not more than $7,500 will be referred to in this program as "specialized"). Next, intermediaries will be asked to provide, in their application packages, information relating to plans to involve other technical assistance organizations, without there being any charge to the intermediary or contractual agreement requiring payment, such as counselors from the Service Corp of Retired Executives (SCORE) or Small Business Development Centers (SBDCs), in providing technical assistance to their microloan borrowers.

Additionally, the definition of the term "intermediary" has been amended. Previously, only private, nonprofit entities or private, nonprofit community development corporations were eligible to participate in the Microloan Demonstration Program. Public Law 102-366 expands the meaning of intermediary to include a consortium of private, nonprofit organizations or private, nonprofit community development corporations. Further, quasi-governmental economic development entities, such as a planning and development district, may be eligible to participate as an intermediary if no application is received from one of the above described groups or if SBA, in its sole discretion, determines that the needs of a region or geographic area are not adequately served by an otherwise eligible organization which has either submitted an application or has been admitted to participate in the Microloan Program. State, county, or local government units or any agency or other entity thereof are not eligible to participate in the Program as an intermediary.

Pursuant to Public Law 102-366, SBA will "buy down" the interest rate charged an intermediary on its loan from SBA depending upon the average size of loan in the intermediary's portfolio. Generally, loans made by SBA to an intermediary will bear an interest rate equal to the rate for five year obligations of the United States Treasury which SBA will buy down by 1.25 percent. A specialized intermediary will pay, on its loan from SBA, an interest rate that is equal to the Treasury rate for five year obligations which SBA will buy down by 2 percent. The rate of interest charged by SBA on its loan to the intermediary, after buy down, will be applied retroactively for the first year of an intermediary's participation in the Program. This will be based upon the actual lending practices of the intermediary, as determined by SBA, prior to the end of such year. In the second and subsequent years of participation, the interest rate will be determined based upon the cumulative actual lending practices of the intermediary during its participation in the Program. The applicable rate will be computed on the anniversary date of the first year interest rate calculation. In the case that an intermediary's interest rate basis changes from year to year, SBA will reamortize the remaining debt of the intermediary from the time of the interest rate computation forward. When SBA recalculates an intermediary's interest rate basis it will not seek a rebate of funds or additional money from the intermediary for prior payments at the different interest rate. The interest rate basis established in Public Law 102-366 will apply retroactively to all loans made by SBA pursuant to the original Program authority as established in Public Law 102-140.

The interest rate charged an intermediary will apply to each separate loanmaking site or office of such intermediary. As such, SBA will assess the average size of loan for each site or office of an intermediary to determine which interest rate basis is appropriate for such office. Next, SBA will allocate the interest rate buy down to that portion of the total loan outstanding from SBA which is applicable to each separate office or site of the intermediary. For example, assume a $100,000 loan from SBA to an intermediary which has two offices or sites, one office or site makes a total of $50,000 in microloans averaging $7,000 and another office or site which makes a total of $50,000 in microloans averaging $10,000. SBA will apply the 2% interest rate buy down to $50,000 and the 1.25% interest rate buy down to the remaining $50,000. SBA has determined, for purposes of this regulation, that the terms "office" and "site" mean a fixed, existing, geographic location established at a specific address.

Public Law 102-366 ties the rate of interest which an intermediary may charge its microloan borrowers to the interest rate which the intermediary pays on its loan from SBA. Specifically,

the law provides that, State constitution or law notwithstanding, the maximum rate of interest to be charged on a microloan of greater than $7,500 is no more than the rate the intermediary pays SBA, after the interest rate buy down, plus 7.75 percentage points and in the case of a microloan of $7,500 or less, the rate which an intermediary may charge its borrower can be no more than 8.5 percentage points above the rate which the intermediary pays SBA after the interest rate buy down. For purposes of calculating the interest rate which the intermediary may charge its microloan borrowers, SBA will assume that all intermediaries will qualify as specialized intermediaries during the first year of their program participation. As such, the intermediary will operate as if its loan from SBA was bought down by two (2) percent. The buy down rate will thus serve as the basis from which the intermediary will determine the rate which it may charge its microloan borrowers for the first year of participation. In each subsequent year SBA will calculate the rate of interest charged to each office or site of the intermediary according to the buy down formula described above. The yearly recalculated SBA loan interest rate will then serve as the interest rate basis for microloans funded by each office or site of the intermediary in the following year.

Each intermediary which receives a loan from SBA, the proceeds of which are used to make microloans, is eligible to be awarded a grant for the purpose of providing T/A. Pursuant to authority set forth in Public Law 102–366, an intermediary will now be eligible to receive such yearly grants in an amount equal to 25% of the total outstanding balance of the loan made to the intermediary by SBA, subject to the availability of appropriations for this purpose. Further, the intermediary which receives this grant will be required to provide a funding match, solely from non-Federal sources, equal to 25% of the amount of SBA's grant. The required grant match may not be in the form of a loan from a non-Federal source. In addition to the above described grant, specialized intermediaries will be eligible to receive a grant for the provision of T/A to their microloan borrowers equal to 5% of the amount of the outstanding balance of the loan made by SBA. There is no matching requirement for this additional grant. The eligibility for this additional grant will be determined in each year of an intermediary's participation based upon the average loan size in its portfolio for the previous year.

All administrative costs incurred by the intermediary in implementing this Program will be funded out of the interest rate spread, i.e. the difference between the rate which the intermediary pays SBA on its loan and the rate which the intermediary charges its microloan borrowers. The grant funds provided to the intermediary shall be used solely for the provision of marketing, management, and technical assistance, *Provided however*, That, an intermediary may, in the sole discretion of and with prior approval by the Assistant Administrator for Financial Assistance of the SBA, use funds provided pursuant to such grant for the payment of costs incidental to the furnishing of T/A. SBA's discretion to allow this additional use of funds may be exercised only in the situation where the intermediary will not be able to adequately provide T/A to the microloan borrower but for the use of grant funds to pay such incidental costs. SBA will allow an intermediary, only with the prior consent of the Assistant Administrator for Financial Assistance of the SBA, to use a portion of the grant funds to pay administrative costs associated with running the Program prior to the existence of a sufficient income stream from the interest rate spread to fund such activities.

SBA may procure technical assistance for intermediaries participating in the Microloan Demonstration Program to ensure that such intermediaries have a sufficient level of knowledge, skills, and understanding of microlending to successfully operate as an intermediary within the program. SBA may also obtain such assistance for organizations in areas of the country which are either underserved or not presently served by an existing intermediary for the purpose of providing such organizations with the necessary information and experience to be eligible to participate as intermediaries. SBA will provide such assistance by awarding at least one (1) grant to an experienced microlending organization(s).

In order to clarify a potential misunderstanding in the existing regulation, SBA is amending § 122.61–6 regarding collateral. Specifically, in the case of default by an intermediary on its loan from SBA, the liability of the intermediary will be limited to the collateral securing the loan. This collateral, by regulation, consists of a first lien position in favor of SBA in both the Microloan Revolving and Loan Loss Reserve Funds of the intermediary, as well as in the notes receivable from the microloans funded by the intermediary.

Additionally, SBA is amending the existing regulation regarding the area of operation of an intermediary. Specifically, an intermediary, including its affiliates, may not conduct its operations under the Program outside its approved area. Further, no intermediary may undertake Program activities in more than one State.

As a final amendment, SBA is revising the definition of the term "grant" as set forth in the original regulation. This change simply replaces the current definition of this word with that contained in the Uniform Administrative Requirements for Grants and Cooperative Agreements adopted by SBA as part of a government-wide common rule, and codified at part 143 of Title 13, Code of Federal Regulations. This amendment is meant to maintain uniformity and consistency within SBA's regulations. It does not affect the eligibility for, or requirements of, any such award to an intermediary under this Program.

This rule is being published on an interim final basis pursuant to authority set forth at section 114 of Public Law 102–366.

Compliance With Executive Orders 12291, 12612, and 12778, the Paperwork Reduction Act, 44 U.S.C. ch. 35, and the Regulatory Flexibility Act, 5 U.S.C. 601 et seq.

For purposes of Executive Order 12291, SBA certifies that this interim final rule will not constitute a major rule because it will not have an annual effect on the economy of $100 million or more; will not result in a major increase in costs for consumers, industry, or government; and will not have significant adverse effects on competition. SBA makes this certification based upon the fact that the statutorily authorized level of appropriation for this Program never exceeds $80 million in any one fiscal year.

For purposes of the Regulatory Flexibility Act, SBA certifies that this proposed rule will not have a significant economic effect on a substantial number of small entities for the same reason that it is not a major rule.

For purposes of the Paperwork Reduction Act, SBA certifies that this interim final rule imposes no new reporting or recordkeeping requirements.

For purposes of Executive Order 12612, SBA certifies that this interim final rule will not have federalism implication warranting the preparation of a Federalism Assessment.

For purposes of Executive Order 12778, SBA certifies that this interim final rule is drafted, to the extent

practicable, in accordance with the standards set forth in section 2 of that Order.

List of Subjects in 13 CFR Part 122

Loan programs—business, Small businesses.

For the reasons set forth above, part 122 of title 13, Code of Federal Regulations, is amended as follows.

PART 122—[AMENDED]

1. The authority citation for part 122 is revised to read as follows:

Authority: 15 U.S.C. 634(b)(6), 636(a), 636(m).

2. Section 122.61–1 is amended by revising the first sentence of paragraph (a) and by revising paragraph (b) to read as follows:

§ 122.61–1 Policy.

(a) *Program.* The Act authorizes a five (5) year Microloan Demonstration Program through which the SBA is to make direct loans to qualified intermediary lenders who will use the proceeds to make short-term, fixed interest rate microloans, particularly loans in amounts averaging not more than $7,500, to startup, newly established, and growing small business concerns. * * *

(b) *Purpose.* The purpose of the Microloan Demonstration Program is to assist women, low-income, and minority entrepreneurs and business owners and other such individuals possessing the capability to operate successful business concerns and to assist small business concerns in those areas suffering from a lack of credit due to economic downturn.

3. Section 122.61–2 is amended by revising paragraphs (b) and (d) to read as follows:

§ 122.61–2 Definitions.

* * * * *

(b) *Grant* means an award of financial assistance, including cooperative agreements, in the form of money, or property in lieu of money, by the Federal Government to an eligible grantee. The term does not include technical assistance which provides services instead of money, or other assistance in the form of revenue sharing, loans, loan guarantees, interest subsidies, insurance, or direct appropriations. Also, the term does not include assistance, such as a fellowship or other lump sum award, which the grantee is not required to account for.

* * * * *

(d) *Intermediary* means: (1) A private, nonprofit entity;

(2) a private, nonprofit, community development corporation;

(3) a consortium of private, nonprofit organizations or private, nonprofit community development corporations; or

(4) a quasi-governmental economic development entity, other than a State, county, municipal government or any agency thereof, only if:

(i) No application is received from an otherwise eligible organization; or

(ii) the SBA, in its sole discretion, determines that the needs of a region or geographic area are not adequately served by an otherwise eligible organization which:

(A) has submitted an application; or

(B) Has previously been admitted to participate as an intermediary.

* * * * *

4. Section 122.61–3 is amended by revising paragraphs (b)(3) and (b)(8) and adding paragraph (c) to read as follows:

§ 122.61–3 Participation of intermediary.

* * * * *

(b) * * *

(3) The geographic area to be served and its economic, poverty, and unemployment characteristics;

* * * * *

(8) Any plan of the intermediary to involve other technical assistance providers, without there being any charge to the intermediary or contractual agreement requiring payment, such as counselors from the Service Corp of Retired Executives or small business development centers, or private sector lenders in assisting selected microloan borrowers.

* * * * *

(c) *Preference.* In selecting intermediaries to participate in the Microloan Demonstration Program, SBA will give priority to those applicants which provide loans in amounts averaging not more than $7,500. (For ease of reference, intermediaries which maintain a portfolio of microloans averaging not more than $7,500 will be referred to in this part as "specialized").

5. Section 122.61–5 is amended by adding a sentence to the end thereof to read as follows:

§ 122.61–5 Portion of intermediary's Microloan Revolving Fund from non-federal sources.

* * * This amount may not come from the proceeds of a loan from a non-Federal source to the intermediary.

6. Section 122.61–6 is amended by redesignating paragraphs (b) through (e) as paragraphs (c) through (f), by revising paragraph (a) and newly redesignated paragraph (d) and adding a new paragraph (b) to read as follows:

§ 122.61–6 Conditions on SBA loan to intermediary.

(a) *Loan maturity.* Any loan made by SBA to an intermediary under this program shall be for a term of 10 years.

(b) *Interest rate.* (1) *General.* The rate of interest for a loan made by SBA to an intermediary under this program shall be determined pursuant to paragraph (b)(2) of this section and, if necessary, adjusted on a yearly basis pursuant to paragraph (b)(3) of this section.

(2) *Rate basis.* (i) Except as provided in paragraph (b)(2)(ii) of this section, loans made to intermediaries by SBA will bear a rate of interest equal to the rate applicable to five year obligations of the United States Treasury, adjusted to the nearest one-eighth of one percent, less 1.25 percent.

(ii) Loans made to intermediaries which qualify as specialized intermediaries shall bear a rate of interest equal to the rate applicable to five year obligations of the United States Treasury, adjusted to the nearest one-eighth of one percent, less 2 percent.

(iii) The interest rate basis described in this subsection shall be allocated according to the average loan portfolio of each separate loan-making site or office of an intermediary. For purposes of this section, the terms "office" or "site" shall mean a fixed, existing, geographic location established at a specific address.

(3) *Time of rate determination.* The applicable rate of interest to be charged an intermediary under this program shall:

(i) Be applied retroactively for the first year of an intermediary's participation in the program, based upon the actual lending practices of the intermediary as determined by the SBA prior to the end of such year; and

(ii) Be based in the second and subsequent years of an intermediary's participation in the program, upon the cumulative actual lending practices of the intermediary during the term of its participation in the program. The applicable rate will be computed on the anniversary date of the first year interest rate calculation.

* * * * *

(d) *Fees and collateral.* (1) *Fees.* Except as otherwise provided in this section, the Agency shall not charge an intermediary any fee with respect to a loan it makes to the intermediary under this program.

(2) *Collateral.* (i) The SBA shall receive a first lien position on the notes receivable with respect to each microloan which the intermediary makes under this program.

(ii) In the event of default by an intermediary on its loan from SBA, the liability of the intermediary shall be limited to the collateral, taken pursuant to this part, securing the defaulted loan. Such collateral consists of: A first lien in the intermediary's Microloan Revolving Fund, taken pursuant to § 122.61–4(c), a first lien position in the Loan Loss Reserve Fund of the intermediary, taken pursuant to § 122.61–8(d), and a first lien position with respect to the notes receivable from the microloans to small business concerns funded by the intermediary, taken pursuant to § 122.61–6(d)(2)(i).

* * * * *

7. Section 122.61–7(c) is revised to read as follows:

§ 122.61–7 Microloan made by intermediary to eligible concern.

* * * * *

(c) *Interest rate.* (1) The Act provides that, notwithstanding any provision of the laws of a State or the constitution of any State pertaining to the rate or amount of interest that may be charged, taken, received, or reserved on a loan, the maximum rate of interest to be charged on a microloan funded under this program shall not exceed the rate of interest paid by the intermediary on its loan from SBA:

(i) In the case of a microloan made by an intermediary of more than $7,500, by more than 7.75 percentage points; and

(ii) In the case of a microloan made by an intermediary of $7,500 or less, by more than 8.5 percentage points.

* * * * *

8. Section 122.61–9 is revised to read as follows:

§ 122.61–9 SBA grant to intermediary for marketing, management, and technical assistance.

(a) *General.* As an integral part of the receipt of a microloan under this program, a borrower shall receive intensive marketing, management, and technical assistance. Any intermediary which receives a loan from SBA under this program shall be eligible to receive a grant from SBA, the proceeds of which shall be used solely to provide such marketing, management, and technical assistance to microloan borrowers. An intermediary is prohibited from contracting for or engaging the services of another entity for the provision of such marketing, management, and technical assistance.

(b) *Amount of Grant.* (1) Subject to the requirement of paragraph (b)(2) of this section, and the availability of appropriations, each intermediary under this program shall be eligible to receive a grant equal to 25% of the total outstanding balance of loans made to it by SBA.

(2) In order to qualify for a grant pursuant to paragraph (b)(1) of this section, an intermediary must contribute, solely from non-Federal sources, an amount equal to 25% of the amount of the grant which it will receive from SBA. This amount may not come from the proceeds of a loan from a non-Federal source to the intermediary and must be used for the purpose of providing marketing, management, and technical assistance to small business borrowers under SBA's Microloan Demonstration Program.

(3) An intermediary which qualifies as a specialized intermediary shall be eligible to receive an additional grant, solely for the purpose of providing marketing, management, and technical assistance to its microloan borrowers, equal to 5% of the total outstanding balance of loans made to it by SBA. The specialized intermediary is not required to contribute a matching amount in order to receive this additional grant.

(4) The eligibility for a grant awarded to this section shall be determined separately for each loan making site or office of an intermediary. SBA will make this determination upon the same basis and methodology applicable to interest rates, as set forth in § 122.61–6(b)(3).

§ 122.61–10 [Amended]

9. Section 122.61–10(b) is amended by revising the term "two (2)" to read "six (6)".

10. Section 122.61–11(a) is revised to read as follows:

§ 122.61–11 SBA grants to non-intermediary for marketing, management, and technical assistance.

(a) *Participation of intermediary by State.* Any entity believing itself qualified as an intermediary may seek to participate in the Microloan Demonstration Program by applying to SBA. SBA may approve such applications based upon criteria set forth at § 122.61–3. In no case, however, shall SBA approve, in any one (1) State, more than four (4) intermediaries in the first two (2) years of the program nor more than two intermediaries in any year thereafter. In no case shall the intermediaries in any one State receive more than $1,500,000, in the aggregate (excluding grants), from SBA during such State's first year of Program participation. The intermediaries in any one State shall not receive more than $2,500,000, in the aggregate (excluding grants), from SBA during any succeeding year of Program participation. An intermediary, including its affiliates, may not conduct its operations under the Program outside its approved area. Further, no intermediary may undertake Program activities in more than one State.

* * * * *

11. A new § 122.61–12 is added to read as follows:

§ 122.61–12 Technical assistance for intermediaries.

SBA may procure technical assistance for intermediaries participating in the Microloan Demonstration Program to ensure that such intermediaries have a sufficient level of knowledge, skills, and understanding of microlending to successfully operate as an intermediary within the program. SBA may also obtain such assistance for organizations in areas of the country which are either underserved or not presently served by an existing intermediary for the purpose of providing such organizations with the necessary information and experience to be eligible to participate as intermediaries. SBA will provide such assistance by awarding at least one (1) grant to an experienced microlending organization(s).

Dated: October 19, 1992.

Patricia Saiki,

Administrator.

[FR Doc. 92–25758 Filed 10–20–92; 4:16 pm]

BILLING CODE 8025–01–M

DEPARTMENT OF COMMERCE

Bureau of Export Administration

15 CFR Parts 770 and 799

[Docket No. 92043–2243]

Revisions to the Commerce Control List; Transfer of Communication Satellites From the U.S. Munitions List

AGENCY: Bureau of Export Administration, Commerce.

ACTION: Interim rule.

SUMMARY: The Bureau of Export Administration (BXA) is amending the Export Administration Regulations (EAR) by adding a new ECCN 9A04A to the Commerce Control List (CCL), requiring a validated license for certain communication satellites to all destinations, except Canada. This entry controls communication satellites that have previously been covered by the U.S. Munitions List (USML) and that were controlled by the Department of State, Office of Defense Trade Control. This transfer of jurisdiction implements part of the Presidential directive of November 16, 1990, which mandated the removal from the USML of all items

contained in the COCOM dual-use list (the International Industrial List) unless significant U.S. national security interests would be jeopardized. This rule makes the USML and the Commerce Control List more consistent with the international list maintained by COCOM.

It is important to note that although Commerce now controls these communication satellites, all detailed design, development, manufacturing and production technical data, or any specifically designed or modified component, part, accessory, attachment, or associated equipment for satellites, including those covered by the CCL remain controlled under subparagraph (d)(2) of Category XV on the USML at this time. All other technical data, such as that level of technical data (including marketing data) necessary and reasonable for a purchaser to have assurance that a U.S.-built item intended to operate in space has been designed, manufactured, and tested in conformance with specified contract requirements (e.g., operational performance, reliability, lifetime, product quality, delivery expectations) as well as data necessary to launch, operate and maintain satellites and associated ground equipment for satellites controlled under ECCN 9A04 on the CCL, are controlled by the Department of Commerce.

This rule also amends the EAR by adding a definition for "export of satellites" and revising the definition of "reexport".

DATES: This rule is effective October 23, 1992. Comments must be received by November 23, 1992.

ADDRESSES: Written comments (six copies) should be sent to: Nancy Crowe, Office of Technology and Policy Analysis, Bureau of Export Administration, Department of Commerce, P.O. Box 273, Washington, DC 20044.

FOR FURTHER INFORMATION CONTACT: Jerald Beiter, Office of Technology and Policy Analysis, Electronic Components Technical Center, Bureau of Export Administration, telephone: (202) 482-1641.

SUPPLEMENTARY INFORMATION:

Background

On November 16, 1990, the President signed Executive Order 12735 on Chemical and Biological Weapons Proliferation, and directed various other export control measures including the removal from the USML of all items contained on the COCOM dual-use list unless significant U.S. national security interests would be jeopardized. To implement this part of the directive, a space technical working group was established. The group consists of representatives from the Departments of State, Commerce and Defense, as well as other U.S. government agencies. The result of the working group's recommendation was a proposed rule published on April 22, 1992 in the **Federal Register** (57 FR 14671) by the Department of State, Bureau of Politico-Military Affairs. The State Department rule proposed to remove certain commercial communication satellites from the International Traffic in Arms Regulations (ITAR) to the jurisdiction of the Department of Commerce. A final rule is published elsewhere in this issue of the **Federal Register** by the Bureau of Politico-Military Affairs. That rule implements these proposed changes, contingent upon publication of a Commerce rule establishing national security controls on commercial communication satellites.

Commerce is therefore issuing this interim rule adding certain commercial communication satellites that are removed from the USML to the Commerce Control List. All specially designed or modified components, parts, accessories, attachments, and associated equipment (including ground support equipment) remain under control of the USML. However, Commerce will accept export license applications for this equipment if needed for a specific launch of a satellite controlled by Commerce. This is intended to limit situations requiring licenses from both Commerce and State for a specific launch. Any unused spares or support ground equipment exported under a Commerce validated license must be returned to the U.S. following completion of the specific launch. All detailed design, development, manufacturing and production technology, or any specifically designed or modified component, part, accessory, attachment, or associated equipment (except as described above) for satellites controlled on the CCL continues to be controlled under Category XV on the USML

Rulemaking Requirements

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

2. This rule involves collections of information subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*). These collections have been approved by the Office of Management and Budget under control numbers 0694-0005, 0694-0007, and 0694-0010.

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

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

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

However, because of the importance of the issues raised by these regulations, this rule is being issued in interim form and comments will be considered in the development of final regulations. Accordingly, the Department encourages interested persons who wish to comment to do so at the earliest possible time to permit the fullest consideration of their views.

The period for submission of comments will close November 23, 1992. The Department will consider all comments received before the close of the comment period in developing final regulations. Comments received after the end of the comment period will be considered if possible, but their consideration cannot be assured. The Department will not accept public comments accompanied by a request that a part or all of the material be treated confidentially because of its business proprietary nature or for any other reason. The Department will return such comments and materials to the person submitting the comments and will not consider them in the development of final regulations. All public comments on these regulations will be a matter of public record and will be available for public inspection and copying. In the interest of accuracy and completeness, the Department requires comments in written form. Oral comments must be followed by written memoranda, which will also be a matter of public record and will be available for public review and copying. Communications from agencies of the United States Government or foreign governments will not be made available for public inspection.

The public record concerning these regulations will be maintained in the

Bureau of Export Administration Freedom of Information Records Inspection Facility, room 4525, Department of Commerce, 14th Street and Pennsylvania Avenue, NW., Washington, DC 20230. Records in this facility, including written public comments and memoranda summarizing the substance of oral communications, may be inspected and copied in accordance with regulations published in part 4 of title 15 of the Code of Federal Regulations. Information about the inspection and copying of records at the facility may be obtained from Margaret Cornejo, Bureau of Export Administration Freedom of Information Officer, at the above address or by calling (202) 377-5653.

List of Subjects

15 CFR Part 770

Administrative practice and procedure, Exports.

15 CFR Part 799

Exports, Reporting and recordkeeping requirements.

Accordingly, parts 770 and 799 of the Export Administration Regulations (15 CFR parts 730-799) are amended as follows:

1. The authority citation for 15 CFR parts 770 and 799 continues to read as follows:

Authority: Pub. L. 90-351, 82 Stat. 197 (18 U.S.C. 2510 *et seq.*), as amended; sec. 101, Pub. L. 93-153, 87 Stat. 576 (30 U.S.C. 185), as amended; sec. 103, Pub. L. 94-163, 89 Stat. 877 (42 U.S.C. 6212), as amended; secs. 201 and 201(11)(e), Pub. L. 94-258, 90 Stat. 309 (10 U.S.C. 7420 and 7430(e)), as amended; Pub. L. 95-223, 91 Stat. 1626 (50 U.S.C. 1701 *et seq.*), Pub. L. 95-242, 92 Stat. 120 (22 U.S.C. 3201 *et seq.* and 42 U.S.C. 2139a); sec. 208, Pub. L. 95-372, 92 Stat. 668 (43 U.S.C. 1354), Pub. L. 96-72, 93 Stat. 503 (50 U.S.C. App. 2401 *et seq.*), as amended; sec. 125, Pub. L. 99-64, 99 Stat. 156 (46 U.S.C. 466c), E.O. 11912 of April 13, 1976 (41 FR 15825, April 15, 1976); E.O. 12002 of July 7, 1977 (42 FR 35623, July 7, 1977), as amended; E.O. 12058 of May 11, 1978 (43 FR 20947, May 16, 1978); E.O. 12214 of May 2, 1980 (45 FR 29783, May 6, 1980); E.O. 12730 of September 30, 1990 (55 FR 40373, October 2, 1990), as continued by Notice of September 25, 1992 (57 FR 44649, September 28, 1992); and E.O. 12735 of November 16, 1990 (55 FR 48587, November 20, 1990), as continued by Notice of November 14, 1991 (56 FR 58171, November 15, 1991).

PART 770—[AMENDED]

2. Section 770.2 is amended by adding the definition of *Export of satellites* in alphabetical order, and by revising the definition of *Reexport* to read as follows:

§ 770.2 Definitions of terms.

* * * * *

Export of satellites. The term export, as applied to satellites controlled by the Department of Commerce, includes the physical movement of a satellite from the United States to another country for any purpose, or the transfer of registration of a satellite or operational control over a satellite from a party resident in the United States to a party resident in another country. Under the Commercial Space Launch Act, a launch of a launch vehicle and payload is not an export for purposes of controlling export.

* * * * *

Reexport. The term *reexport* in the Export Administration Regulations in this subchapter, or any license, order, or export control document issued thereunder, includes reexport, transhipment, or diversion of commodities or technical data from one foreign destination to another. In addition, for purposes of satellites controlled by the Department of Commerce, the term *reexport* also includes the transfer of registration of a satellite or operational control over a satellite from a party resident in one country to a party resident in another country.

* * * * *

PART 799—[AMENDED]

Supplement No. 1 to § 799.1 [Amended]

3. Supplement No. 1 to § 799.1, Category 9, is amended by adding a new ECCN 9A04A directly following 9A03A to read as follows:

9A04A "Spacecraft", (not including their payloads) as follows.

Note 1: (For the control status of products contained in "spacecraft" payloads, see the appropriate category.)

Note 2: For items, other than those specified in this ECCN, exporters requesting a validated license from the Department of Commerce, must provide a statement from the Department of State, Office of Defense Trade Controls, verifying the item intended for export is under the licensing jurisdiction of the Department of Commerce.

Requirements

Validated License Required: QSTVWYZ
Unit: Equipment in number; parts and accessories in $ Value
Reason for Control: NS
GLV: $0
GCT: No
GFW: No

List of Items Controlled

a. Commercial Communication Satellites, except those with the following characteristics:

a.1. Anti-jam capability: Antennas and/or antenna systems with the ability to respond to incoming interference by adaptively reducing antenna gain in the direction of the interference;

a.2. Antennas:

a.2.a. With aperture (overall dimension of the radiating portions(s) of the antennas) greater than 30 feet; or

a.2.b. With sidelobes less than or equal to -35db; or

a.2.c. Designed, modified or configured to provide coverage area on the surface of the earth less than 200 nm in diameter, where "coverage area" is defined as that area on the surface of the earth that is illuminated by the main beam width of the antenna (which is the angular distance between half power points of the beam);

a.3. Designed, modified or configured for intersatellite data relay links that do not involve a ground relay terminal ("cross-links");

a.4. Spaceborne baseband processing equipment that uses any technique other than frequency translation which can be changed on a channel by channel basis among previously assigned fixed frequencies several times a day;

a.5. Employing any of the cryptographic items controlled under Category XIII (b) of the U.S. Munitions List;

a.6. Employing radiation-hardened devices controlled elsewhere in § 121.1 of the ITAR (22 CFR 121.1) that are not "embedded" in the satellite in such a way as to deny physical access. (Here "embedded" means that the device cannot feasibly either be removed from the satellite or used for other purposes);

a.7. Having propulsion systems that permit acceleration of the satellite on-orbit (i.e., after mission orbit injection) at rates greater than 0.1 g;

a.8. Having attitude control and determination systems designed to provide spacecraft pointing determination and control better than 0.02 Degrees azimuth and elevation; or

a.9. Having orbit transfer engines ("kick motors") that remain permanently with the spacecraft and are capable of being restarted after achievement of mission orbit and providing acceleration greater than 1 g. (Orbit transfer engines that are not designed, built, and shipped as an integral part of the satellite are controlled under Category IV of the USML.)

b. [Reserved]

Note 1: Transferring registration or operational control to any foreign person of any satellite controlled by this entry must be authorized by an individual validated license. This requirement applies whether the

satellite is physically located in the United States or abroad.

Note 2: All parts, components, accessories, attachments, and associated equipment (including ground support equipment) remain under control of the U.S. Munitions List. However, Commerce will accept export license applications for this equipment if needed for a specific launch of a satellite controlled under this entry. Any spare or ground equipment exported under a Commerce validated license must be returned to the U.S. following completion of the specific launch.

Note 3: All communications satellites identified in paragraphs a.1. through a.9. of this ECCN require a license from the Department of State, Office of Defense Trade Controls (see Category XV of the USML).

4. Supplement No. 1 to § 799.1, Category 9, is amended by adding a note directly following the heading under ECCNs 9D01A, 9D02A, and 9E01A to read as follows:

9D01A "Software" "required" for the "development" of equipment controlled by 9A01, 9A02, 9A03, 9A18, 9B01, 9B02, 9B03, 9B04, 9B05, 9B06, 9B07, 9B08, or 9B09, or technology controlled by 9E03.

Note: Software required for the development of equipment controlled by 9A04 is controlled by the Department of State Office of Defense Trade Control. See Category XV of the USML.

* * * * *

9D02A "Software" "required" for the "production" of equipment controlled by 9A01, 9A02, 9A03, 9A18, 9B01, 9B02, 9B03, 9B04, 9B05, 9B06, 9B07, 9B08, or 9B09.

Note: Software required for the production of equipment controlled by 9A04 is controlled by the Department of State, Office of Defense Trade Control. See Category XV of the USML.

* * * * *

9E01A Technology according to the General Technology Note for the "development" of equipment controlled by 9A01.c, 9A18, 9B01, 9B02, 9B03, 9B04, 9B05, 9B06, 9B07, 9B08, or 9B09, or "software" controlled by 9D01, 9D02, 9D03, or 9D04.

Note: Technology required for the development of equipment controlled by 9A04 is controlled by the Department of State, Office of Defense Trade Control. See Category XV of the USML.

* * * * *

5. Supplement No. 1 to § 799.1, Category 9, is amended by designating the existing Note which follows the heading as Note 2 and adding a new Note 1 to read as follows:

9E02A Technology according to the General Technology Note for the "production" of equipment controlled by 9A01.c, 9A18, 9B01, 9B02, 9B03, 9B04, 9B05, 9B06, 9B07, 9B08, or 9B09.

Note 1: Technology required for the production of equipment controlled by 9A04 is controlled by the Department of State, Office of Defense Trade Control. See Category XV of the USML.

Note 2: * * *

* * * * *

Dated: October 15, 1992.

James M. LeMunyon,

Acting Assistant Secretary for Export Administration.

[FR Doc. 92-25688 Filed 10-22-92; 8:45 am]

BILLING CODE 3510-DT-M

DEPARTMENT OF STATE

Bureau of Politico-Military Affairs

22 CFR Part 121

[Public Notice 1710]

Amendments to the International Traffic in Arms Regulations (ITAR)

AGENCY: Department of State.

ACTION: Final rule.

SUMMARY: This rule is the result of a notice of proposed rule-making published in the **Federal Register** dated April 22, 1992. It amends the regulations implementing section 38 of the Arms Export Control Act, which governs the export of defense articles and defense services. Specifically, this rule moves military satellites and certain non-military communications satellites having certain specified parameters, as well as relevant components, parts, accessories, attachments and associated equipment and technical data and defense services into Category XV, which covers spacecraft and related equipment. Until now, those commodities had been controlled in Category VIII (h), (i), (j), and (k) and Category XI (c) and (e). This rule reduces the burden on exporters by identifying the specific parameters for a satellite that subject it to control on the U.S. Munitions List (USML) for reasons of U.S. national security. Any commercial communications satellite not meeting these parameters will be subject to the controls of the Department of Commerce under the provisions of the Export Administration Act, as amended. The U.S. Department of Commerce is publishing elsewhere in this issue of the **Federal Register** an interim rule to establish the new Export Control Classification Number (ECCN) category.

EFFECTIVE DATE: This rule will take effect October 23, 1992. The transfer of commercial communications satellites to the control of the Department of Commerce will take place on October 23, 1992.

FOR FURTHER INFORMATION CONTACT: Kenneth M. Peoples, Office of Defense Trade Controls, Department of State, telephone 703-875-6619, or fax 703-875-6647.

SUPPLEMENTARY INFORMATION: On November 16, 1990, the President signed Executive Order 12735 on Chemical and Biological Weapons Proliferation and directed various other export control measures. The measures directed by the President included removal from the USML of all items contained on the COCOM dual-use list unless significant U.S. national security interests would be jeopardized by such a move.

In implementing this directive, the Department headed an interagency working group which reviewed the coverage of spacecraft and related components. Chaired by the Department of State, the Space Technical Working Group, (STWG) is comprised of representatives of the Departments of State, Commerce, Defense, and other executive agencies. The group was established to identify and recommend removal from the USML of commercial satellites and related articles covered by the COCOM Industrial List (IL) except where such movement would jeopardize U.S. national security interests. In pursuing this objective, the Group also recommends steps to eliminate real or apparent overlaps between the U.S. Munitions List and the Commerce Control List. This rule derives from both objectives

On September 5, 1991, the Department published an advanced notice of proposed rule-making, establishing a new Category XV on the USML for spacecraft and related systems (**Federal Register**, 56 FR 43894). A final rule formally creating Category XV for Spacecraft Systems and Associated Equipment was published in the **Federal Register** (57 FR 15227) on April 27, 1992.

The advanced notice of proposed rule-making which the Department published in the **Federal Register** on September 5, 1991, advised that a series of proposed rules would follow. Subsequently, a final rule formally creating Category XV for Spacecraft Systems and Associated Equipment was published in the **Federal Register** (57 FR 15227) on April 27, 1992, although no defense articles were placed in the new Category XV as a result of that final rule. This current rule, in turn, moves military satellites to Category XV and identifies certain non-military satellites which have capabilities that justify keeping them on the USML in the interest of U.S. national security. This rule will, by inference, move all other complete commercial communications satellites to the export

licensing control of the U.S. Department of Commerce. Other commodities will be moved to Category XV or to the CCL, as appropriate, as the working group completes its review. In the meantime, all other satellites, including remote sensing satellites, satellites with survivability characteristics exceeding those necessary for survival in the natural environment and spacecraft with high power systems normally used in military satellites remain on the USML.

This final rule derives from a proposed rule published in the **Federal Register**, 57 FR 14671, dated April 22, 1992. Nine responses were received during the 30-day public comment period for the proposed rule. They raised a number of issues with the proposed language, some of which the Department has been able to accommodate in this final rule.

Some industry comments recommended deletion of the paragraphs regarding antennas, "cross-linking," and spaceborne baseband processing. These parameters represent capabilities not present in commercial communications satellites currently in use, but which may well be used in future commercial communications satellites. However, the capabilities they represent also have definite military utility and directly affect specific U.S. national security interests. Future developments may well lead the Department to consider favorably proposals to delete or change these parameters, but this final rule requires that communications satellites utilizing these capabilities be reviewed as USML items.

The language of Category XV(b)(2), paragraph (e) regarding encryption is necessary to ensure consistency between the effects of Category XV and Category XIII of the USML. The U.S. Government is not able to change this language at this time, despite requests to do so in some industry comments.

All satellites currently being built utilize USML-controlled radiation hardened electronic devices, but they also "embed" them so that they are not feasibly removed. The language of paragraph XV(b)(2)(f) regarding "embedded" radiation hardened electronic devices is necessary to clarify that the use in a satellite under the control of the Department of Commerce of radiation hardened electronic integrated circuits normally controlled on the USML does not *ipso facto* cause a satellite using such devices to be controlled on the USML.

In a change from the language of the April 22 proposed rule, the word "mission" has been inserted between the words "after" and "orbit" in the parentheses in paragraph XV(b)(2)(g). This change was made in order to make clear that the control only applies to a satellite having a propulsion system that exceeds the stated parameter after it reaches its final mission orbit, as opposed to some intermediate transfer orbit.

In paragraph XV(b)(2)(j), the Department has added words to the language of the April 22 proposed rule that limit the control to just those satellites having kick motors that can be restarted after achieving final mission orbit. The Department has reworded the language of this paragraph to catch only those satellites having kick motors capable of being shut down when the satellite reaches mission orbit then restarted to move the satellite quickly into a different orbit. Such a capability is not necessary for a commercial satellite, but it has very clear military implications that must be captured under the USML.

Since the STWG has not yet completed its review of components, parts, accessories, attached and associated equipment, all such commodities when specifically designed, modified, or configured for any satellite will automatically remain on the USML in paragraph XV(d). When the STWG has completed its review, it will specifically identify any such commodities that need to be controlled under the USML. At that time, all specifically identified components as well as any such equipment specifically designed, modified, or configured for any spacecraft on the USML will remain on the USML. All other such equipment not so identified or specifically designed, modified, or configured for satellites controlled on the USML will be transferred to the CCL.

The Department is not prepared to move to the CCL all technical data involving detailed design, development, manufacturing or production for commodities moved to the CCL. However, the phrase "to evaluate in-orbit anomalies and" has been added to the language of paragraph (e) on technical data before the words "to evaluate" in order to clarify that such data is not controlled under the language of paragraph (e) on detailed design, development, manufacturing or production information.

Ground stations for commercial communications satellites have long been controlled under the CCL, provided that the ground station does not contain any components captured anywhere on the USML. The Department believes that the language of Category XV(b)(2) currently is sufficient to make clear that such stations are not under USML control unless they contain USML components.

List of Subjects in 22 CFR Part 121

Arms and munitions, Classified information, Exports.

Accordingly, for the reasons set forth above, title 22, chapter I, subchapter M (consisting of parts 120 through 130) of the Code of Federal Regulations is amended to read as set forth below:

PART 121—THE UNITED STATES MUNITIONS LIST

1. The authority citation for part 121 continues to read as follows:

Authority: Sec. 38, Arms Export Control Act, 90 Stat. 744 (22 U.S.C. 2778); E.O. 11958, 42 FR 4311; 22 U.S.C. 2658.

2. In § 121.1, category XV is amended by adding paragraphs (a) and (b) and revising paragraphs (d) and (e) to read as follows:

§ 121.1 General. The United States Munitions List.

* * * * *

Category XV—Spacecraft Systems and Associated Equipment

*(a) Spacecraft and associated hardware, including ground support equipment, specifically designed or modified for military use.

(b) Spacecraft, including their ground stations, with any of the following characteristics:

(1) Reserved (remote sensing satellites)

(2) Communications satellites (excluding ground stations and their associated equipment and technical data not enumerated elsewhere in § 121.1 of this subchapter) with any of the following characteristics:

(i) Anti-jam capability. Antennas and/or antenna systems with ability to respond to incoming interference by adaptively reducing antenna gain in the direction of the interference.

(ii) Antennas:

(A) With aperture (overall dimension of the radiating portions of the antenna) greater than 30 feet; or

(B) With sidelobes less than or equal to −35dB; or

(C) Designed, modified, or configured to provide coverage area on the surface of the earth less than 200 nm in diameter, where "coverage area is defined as that area on the surface of the earth that is illuminated by the main beam width of the antenna (which is the angular distance between half power points of the beam).

(iii) Designed, modified or configured for intersatellite data relay links do not involve a ground relay terminal ("cross-links").

(iv) Spaceborne baseband processing equipment that uses any technique other than frequency translation which can be changed on a channel by channel basis among

previously assigned fixed frequencies several times a day.

(v) Employing any of the cryptographic items controlled under category XIII (b) of § 121.1 of this subchapter.

(vi) Employing radiation-hardened devices controlled elsewhere in § 121.1 that are not "embedded in the satellite in such a way as to deny physical access. (Here "embedded means that the device cannot feasibly either be removed from the satellite or be used for other purposes.)

(vii) Having propulsion systems which permit acceleration of the satellite on-orbit (i.e., after mission orbit injection) at rates greater than 0.1g.

(viii) Having attitude control and determination systems designed to provide spacecraft pointing determination and control better than 0.02 degrees azimuth and elevation.

(ix) Having orbit transfer engines ("kick-motors") which remain permanently with the spacecraft and are capable of being restarted after achievement of mission orbit and providing acceleration greater than lg. (Orbit transfer engines which are not designed, built, and shipped as an integral part of the satellite are controlled under category IV of § 121.1 of this subchapter.)

(3) Reserved. (survivability)

(4) Reserved. (Spacecraft high power subsystems, etc.)

* * * * *

(d) Components, parts, accessories, attachments, and associated equipment (including ground support equipment) specifically designed, modified or configured for the articles in paragraphs (a) through (c) of this category, as well as for any satellites under the export licensing jurisdiction of the Department of Commerce, except as noted below.

Explanatory Note: This language is not intended to preclude a license application of a complete satellite that is under the jurisdiction of the Department of Commerce from including in that license application any directly associated components, parts, accessories, attachments and associated equipment (including ground support equipment) unless such items are specifically identified for control in paragraph (a) or (b) of this category or any other category of § 121.1 of this subchapter. It is understood that spares, replacement parts, ground support and test equipment, payload adapter/interface hardware, etc. are typically provided as part of a satellite launch campaign; however, such items are only exempt from USML licensing when their intended use is directly related to supporting the Commerce-licensed satellite launch campaign. Once the satellite has been successfully launched, it is understood that such items remaining unlaunched will be returned to the United States.

(e) Technical data (as defined in § 120.21 of this subchapter) and defense services (as defined in § 120.8 of this subchapter) directly related to the defense articles enumerated in paragraphs (a) through (d) of this category. (See § 125.4 of this subchapter for exceptions.) Technical data directly related to the manufacture or production of any defense articles enumerated elsewhere in this category that are designated as Significant Military Equipment (SME) shall itself be designated SME. In addition, detailed, design, development, production or manufacturing data for all spacecraft systems and specifically designed or modified components thereof, regardless of which U.S. Government agency has jurisdiction for export of the hardware. (See § 125.4 of this subchapter for exceptions.) This restriction does not include that level of technical data (including marketing data) necessary and reasonable for a purchaser to have assurance that a U.S.-built item intended to operate in space has been designed, manufactured and tested in conformance with specified contract requirements (e.g., operational performance, reliability, lifetime, product quality, or delivery expectations) and data necessary to evaluate in-orbit anomalies and to operate and maintain associated ground equipment.

* * * * *

Dated: September 16, 1992.

Frank G. Wisner,

Under Secretary of State for International Security Affairs.

[FR Doc. 92-25376 Filed 10-22-92; 8:45 am]

BILLING CODE 4710-25-M

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Part 2615

Notices to PBGC of Failures To Make Required Contributions

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule.

SUMMARY: The Pension Protection Act amended the Employee Retirement Income Security Act of 1974 ("ERISA") and the Internal Revenue Code of 1986 by imposing a lien for failure to make required contributions to a single-employer plan and requiring a person that fails to make a required payment when due to notify the Pension Benefit Guaranty Corporation ("PBGC") when the total of unpaid balances of required payments not made when due (including interest) exceeds $1 million. On November 15, 1991, the PBGC published an interim final rule with request for comments that added submission of PBGC Form 200 as the procedure for complying with the statutory notification requirement with respect to plans covered by title IV of ERISA and provided for supplementary information submissions. The PBGC is now adopting these amendments as a final rule with only minor editorial and clarifying changes.

EFFECTIVE DATE: October 23, 1992.

FOR FURTHER INFORMATION CONTACT: Judith A. Neibrief, Attorney, Office of the General Counsel (22500), Pension Benefit Guaranty Corporation, 2020 K Street, NW., Washington, DC 20006; 202-778-8850 (202-778-8859 for TTY and TDD). (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION:

Background

The Pension Protection Act ("PPA") (which was part of the Omnibus Budget Reconciliation Act of 1987 ("OBRA '87") (Pub. L. 100-203)) amended the minimum funding standards of section 412 of the Internal Revenue Code of 1986 ("Code") (26 U.S.C. 412) and section 302 of the Employee Retirement Income Security Act of 1974 ("ERISA") (29 U.S.C. 1082) by, among other things, adding identical lien provisions as new subsection (n) and new subsection (f), respectively. These provisions apply for any post-1987 plan year for which the funded current liability percentage (as defined in Code section 412(1)(8)(B) and ERISA section 302(d)(8)(B)) of a defined benefit plan other than a multiemployer plan (*i.e.*, a single-employer plan) is less than 100 percent.

Subsection (n)(1) and (f)(1) impose a lien in favor of a plan that is subject to the minimum funding standards if (1) any person fails to make a required installment or any other payment required under section 412 of the Code and section 302 of ERISA when due, and (2) the unpaid balance of the required installment or other payment (including interest), when added to the aggregate unpaid balance of all preceding such installments or other payments for which payment was not made when due (including interest), exceeds $1 million. The amount of the lien is equal to the lesser of (1) the amount by which these unpaid balances (including interest) exceed $1 million or (2) the aggregate unpaid balance of required installments and other payments (including interest) for post-1987 plan years for which payment has not been made before the due date. This amount is treated as taxes due and owing the United States.

The statutory lien is upon all property and rights to property belonging to the person or persons that are liable for required contributions (*i.e.*, a contributing sponsor and each member of the controlled group of which that contributing sponsor is a member). It arises on the 60th day following the due date for the required payment and continues until the last day of the first plan year in which the total of the unpaid balances (including interest) described above no longer exceeds $1 million.

Any such lien may be perfected and enforced only by the Pension Benefit

Guaranty Corporation ("PBGC") or, at its direction, by the plan's contributing sponsor or any member of the contributing sponsor's controlled group. Therefore, subsections (n)(4)(A) and (f)(4)(A) require persons committing payment failures to notify the PBGC, within 10 days of the due date for the required installment or other required payment, whenever there is a failure to make a required payment and the total of the unpaid balances (including interest) exceeds $1 million.

To implement the statutory notification requirement with respect to plans that are covered by title IV of ERISA, the PBGC developed PBGC Form 200, Notice of Failure to Make Required Contributions, with related filing instructions, submitted it to the Office of Management and Budget ("OMB") for review under the Paperwork Reduction Act of 1980 (44 U.S.C. chapter 35), and, on November 15, 1991, advised the public of its request and solicited public comment (56 FR 58099). OMB received no comments that warranted modification of Form 200 as submitted, and it approved the form under control number 1212–0041 (expiration date: November 30, 1994). The PBGC so notified the public on December 20, 1991 (56 FR 66094).

A copy of Form 200 together with the related instructions was appended to the December 20 notice. The form has four parts. In part I, the filer must provide certain identifying information. In part II (relating to plan funding information) and part III (relating to contributing sponsor and controlled group financial information), the filer must provide information that the PBGC needs (1) to determine the amount of the statutory lien, (2) to evaluate the funding status of the plan, and (3) to evaluate the financial condition of the filer and members of the same controlled group (if any). Part IV requires certifications by an officer (or individual of comparable authority) of the filer and by an enrolled actuary.

Final Rule

On November 15, 1991, the PBGC also published an interim final rule, effective January 1, 1992 (*i.e.*, it applies to any notice of failure to make required contributions for which the 10-day filing period ended on or after that date) (56 FR 57977). This rule added submission of Form 200 as the procedure for complying with the statutory notification requirement with respect to plans covered by title IV of ERISA and provided for supplementary information submissions in new § 2615.30 of the regulations (29 CFR 2615.30). Because, prior to the addition of this section, part 2615 of the regulations had addressed only requirements for reportable events (*i.e.*, reporting and notification requirements imposed under ERISA section 4043 (29 U.S.C. 1343)), the interim final rule also revised the heading of part 2615, designated the reportable events requirements as subpart A, and added a new subpart B for § 2615.30 and, as appropriate, any future rules implementing other notification requirements.

Paragraph (a) of § 2615.30 (which the PBGC is redesignating as § 2615.31) requires that, to comply with the statutory notification requirement, a contributing sponsor and, if that contributing sponsor is a member of a parent-subsidiary controlled group, the parent must complete and submit Form 200. To satisfy this requirement, the form must include all required documentation and other information and be properly certified. (The PBGC notes that although this requirement only applies to contributing sponsors and parents, each member of a controlled group of which a contributing sponsor is a member is liable for payment of all required contributions and installments (Code section 412(c)(11) and ERISA section 302(c)(11)); thus, all members of the controlled group commit a failure described in ERISA section 302(f)(1) and, hence, are subject to the statutory notification requirement.)

When either a contributing sponsor or the parent completes and submits Form 200 in accordance with the regulations, the PBGC will deem the other to have so filed and will consider the statutory notification requirement to be satisfied by all members of the controlled group of which the filer is a member. Also, since a payment failure that triggers the requirement to file Form 200 also may be a reportable event described in § 2615.16, and completion and submission of Form 200 in accordance with the amended regulations will provide the PBGC with the information needed for reportable event purposes, the PBGC also expanded paragraph (b) of § 2615.16 (the conditions under which the 30-day notice requirement is waived) by adding instances in which Form 200 has been submitted, in accordance with the regulations, with respect to the same failure.

Form 200 must be filed within 10 days after the due date for a required installment or other required payment. The 10-day period is computed in accordance with § 2615.7 of the regulations, and the filing date is the date on which the form is received by the office specified in the instructions.

Paragraph (b) provides that the PBGC may require that Form 200 be supplemented if the PBGC determines it needs additional information to make decisions regarding enforcement of a lien. In any such situation, the additional information must be filed with the PBGC within 7 days after the date of the PBGC's written notification, as determined in accordance with §§ 2615.6 and 2615.7 of the regulations, unless the PBGC specifies a different deadline.

The PBGC issued these amendments as an interim final rule because they involve rules of agency procedure and incorporate a statutory notification requirement and because the PBGC believed that to perform its functions effectively and efficiently, use of Form 200 as a compliance procedure should be initiated in the near future (56 FR 57979). Nevertheless, public comment was solicited on the interim final rule as well as Form 200.

The PBGC considered the four submissions received (during and after the comment period, by the PBGC or OMB) and concluded that none of the comments warranted modification of the amendments made by the interim final rule or their effective date. Therefore, the PBGC is adopting these amendments with only minor changes for consistency with agency practice and clarity (redesignating § 2615.30 as § 2615.31, including the control number under which OMB approved Form 200, removing and conforming statutory references, and clarifying the definition of "contributing sponsor"). Since OMB approved Form 200 as submitted by the PBGC and, except for minor changes, the PBGC is merely adopting amendments previously made (and already in effect), the PBGC finds, for good cause, that further notice and procedure is unnecessary, and this final rule is effective immediately. (5 U.S.C. 553 (b) and (d).)

Two commenters raised questions about the timing and calculation of payments required under ERISA section 302 and Code section 412. The Internal Revenue Service (rather than the PBGC) is responsible for implementing those rules. However, PBGC staff is available to assist members of the public with questions about Form 200 (see the filing instructions for the PBGC contact).

Two commenters objected to the time periods under ERISA section 302(f)(4) and Code section 412(n)(4), with one suggesting a postmark-based filing rule and the other suggesting that information provision be delayed until the due date (including extensions) for the Form 5500, Schedule B, for the plan

year. The PBGC believes that it must proceed quickly if it is to fulfill its responsibilities and protect the interests of the pension insurance program and plan participants and beneficiaries (56 FR 57979). Also, Congress established the 10-day rule for notifying the PBGC and the 60th day rule for when the lien arises.

Insofar as these commenters were concerned about the potential for penalty assessment under ERISA section 4071 (29 U.S.C. 1371) for failure timely to provide required information (see 56 FR 57987–88). The PBGC notes that it has published a statement of policy to advise the public of the manner in which the agency intends to exercise this discretionary authority (57 FR 7605, March 3, 1992). As stated therein, the PBGC views the extent and the willfulness of any failure as two of the factors that are relevant in determining the amount of any penalty in a particular case, and PBGC policy is to reduce the amount initially assessed if and to the extent it concludes (on administrative review) that mitigating facts and circumstances warrant such action (57 FR 7606). Thus, the PBGC will consider whether any notice was submitted within the required time period and, if so, what required information was and was not included in that notice; and the PBGC views action to end the failure as relevant in determining whether to affirm or reduce the amount of a penalty.

One commenter requested that, given the short time period for filing, the enrolled actuary certification be a separate form. The PBGC does not see the need for a separate form, particularly since the enrolled actuary certification (item 11) appears on a separate page of the final Form 200. Also, according to this commenter, it is important that the actuary be allowed to include statements addressing the information used in making calculations as well as comments explaining how they were performed. The enrolled actuary may attach whatever explanatory information he or she thinks is appropriate in responding to items 7 and 8, although no additions or deletions may be made to the certification.

Another commenter took the position that no form should be approved until at least 100 sponsors are expected to file (since the PBGC anticipates filing by only 10 plan sponsors per year and requiring additional information on a case-by-case basis). The PBGC disagrees. While the agency does anticipate that Form 200 will be filed with respect to no more than 10 plans annually, several filings may be required with respect to each such plan (56 FR 58100). The PBGC also sees distinct advantages to regularizing these submissions by providing a uniform format. Among other things, the procedure adopted increases the likelihood that the PBGC will receive necessary information in a timely manner, reducing the need for follow-up communications and requests, and it facilitates filer identification of previously submitted information.

Finally, two commenters objected to the effective date of the interim final rule, suggesting instead an effective date 30 days or more after communication of an OMB-approved form. On November 15, 1991, the PBGC notified the public of its conclusions regarding the information needed to make decisions regarding lien enforcement as well as its rationale for a January 1, 1992, effective date, and it published a copy of the form for providing this information; on December 20, 1991, the PBGC made the form, which OMB approved without modification, available to the public. The PBGC notes that November 15 was more than two months and December 20 was more than one month before the first date by which submission was likely to be required with respect to any plan (*i.e.*, January 27th, for the fourth required installment due on January 15 for a plan operating on a calendar plan year basis (see Code section 412(m)(3) and ERISA section 302(e)(3); § 2615.7)).

E.O. 12291

The PBGC previously determined that the interim final rule was not a "major rule" for the purposes of Executive Order 12291 because it will not have an annual effect on the economy of $100 million or more; create a major increase in costs or prices for consumers, individual industries, or geographic regions; or have significant adverse effects on competition, employment, investment, or innovation or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. The minor modifications made today do not affect that determination.

List of Subjects in 29 CFR Part 2615

Employee benefit plans, Pension insurance, Pensions, Reporting and recordkeeping requirements.

Accordingly, the interim final rule amending 29 CFR part 2615 that was published, on November 15, 1991, at 56 FR 57977–57980 is adopted as a final rule with the following changes:

PART 2615—CERTAIN REPORTING AND NOTIFICATION REQUIREMENTS

1. The authority citation for part 2615 is corrected by adding "and" before "1365".

§ 2615.16 [Amended]

2. Paragraph (b) of § 2615.16 is amended by removing "§ 2615.30" and adding, in its place, "§ 2615.31" in the last sentence.

§ 2615.30 [Redesignated as § 2615.31 and Amended]

3. Section 2615.30 is amended by redesignating it as § 2615.31.

4. Newly redesignated § 2615.31 is amended in paragraph (a), by removing "ERISA" and adding, in its place, "the Act" in the second sentence; in paragraph (c), by removing "(29 U.S.C. 1001, *et seq.*)", by removing "section 404(a)(1) of the Code" and adding, in its place, "section 404(a) of the Code (or that would be entitled to receive a deduction except for the limitations in section 404(a))", and by removing "*Title IV of ERISA*" and adding, in its place, "*title IV of the Act*"; and after paragraph (c) by adding "(Approved by the Office of Management and Budget under control number 1212–0041)".

Issued in Washington, DC, this 16th day of October.

James B. Lockhart III,

Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 92–25667 Filed 10–22–92; 8:45 am]

BILLING CODE 7708–01–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 1

[CGD 92–043]

Applicability of Recreational Vessel Fee

AGENCY: Coast Guard, DOT.

ACTION: Interpretive rule.

SUMMARY: This interpretive rule clarifies the applicability of Recreational Vessel Fee requirements. A number of manufacturers and dealers have requested that certain of their "recreational" boats be exempt from the fee because they are not used for recreation and are not intended to be subject to the fees. This interpretive rule explains the circumstances under which vessels operated by manufacturer or dealer employees for quality control testing, demonstration, or while enroute to and from display for sale, are not

subject to the Recreational Vessel Fee requirements.

EFFECTIVE DATE: This interpretive rule is effective on October 23, 1992.

FOR FURTHER INFORMATION CONTACT: Mr. Carlton Perry, Regulatory Coordinator, Auxiliary, Boating, and Consumer Affairs Division (G-NAB), U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, DC 20593-0001; telephone (202) 267-0979.

SUPPLEMENTARY INFORMATION:

Drafting Information

The principal persons involved in drafting this document are Carlton Perry, Project Manager, and C.G. Green, Project Counsel, Office of Chief Counsel.

Background and Purpose

The Omnibus Budget Reconciliation Act of 1990 (the Act) amended section 2110 of title 46, United States Code, to require the Secretary of Transportation to establish a fee or charge for recreational vessels and to collect it annually in fiscal years (FY) 1991 through 1995 from the vessel owner or operator. The indirect vessel fee required by section 2110(b) applies only to recreational vessels that are greater than 16 feet in length and which are operated on navigable waters of the United States where the Coast Guard has a presence. The statute does not authorize application of this fee to commercial vessels.

In its final rule, published on July 1, 1991 (56 FR 30244), the Coast Guard addressed several comments that had requested individual exemptions for marinas and dealer vessels with state registration number plates. The Coast Guard did not create these exemptions. The Coast Guard further advised in the final rule that manufacturers and dealers using backing plates to display the vessel numbers as allowed under 33 CFR 173.27 would place the decals on the backing plates. Because the backing plates may be used on different length vessels, the decals would need to equal or exceed the fee amount for the length of vessel on which the backing plates were being used.

A number of dealers and manufacturers have requested that the Coast Guard reconsider its decision and exempt from the fee manufacturers and dealers who were only operating vessels for quality control testing, demonstration, or while enroute to and from display for sale.

The fee does not apply to uninspected passenger or other commercial vessels. Therefore, when operated only for quality control testing, demonstration, or while enroute to and from display for sale, manufacturers' and dealers' vessels are being used as commercial vessels and are not subject to the Recreational Vessel Fee. Any recreational use of these vessels, however, will require display of current Recreational Vessel Fee decals on the vessel number plates.

Dated: October 19, 1992.

W.J. Ecker,

Chief, Office of Navigation Safety and Waterway Services.

[FR Doc. 92-25754 Filed 10-22-92; 8:45 am]

BILLING CODE 4910-14-M

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46 CFR Parts 35, 77, 96, 108, 160, 167, 169, and 195

[CGD 86-036]

RIN 2115-AC30

Updating Approval and Carriage Requirements for Breathing Apparatus

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: This final rule updates the requirements for approval and carriage of respiratory equipment aboard merchant vessels. The current rules cite outdated agencies and schedules and allow the carriage of obsolete equipment. This final rule reflects current practice and removes unsuitable equipment from merchant vessels.

EFFECTIVE DATE: This final rule is effective November 23, 1992.

FOR FURTHER INFORMATION CONTACT: Lieutenant Commander Charles F. Barker, Project Manager, Office of Merchant Marine Safety, Security, and Environmental Protection (G-MVI), (202) 267-1181.

SUPPLEMENTARY INFORMATION:

Background and Purpose

Subchapters D, H, I, I-A, R, and U of title 46 of the Code of Federal Regulations (CFR) require the carriage of breathing apparatus as part of the required fireman's or emergency outfits. Subchapters H, I, I-A, R, and U require the carriage of suitable apparatus for protection from refrigerants. The Coast Guard does not test or certify the apparatus it approves for use aboard merchant vessels, but relies instead on the testing and approval conducted by other Federal agencies. From the apparatus tested and approved by those agencies, the Coast Guard approves that suitable for use aboard merchant vessels.

The Coast Guard's approval specification for respirators, 46 CFR part 160, subpart 160.011, is obsolete. It requires approval by the U.S. Bureau of Mines in accordance with the schedules of the Bureau, but the Bureau no longer grants approval.

The Bureau of Mines and its parent agency, the U.S. Department of the Interior, tested and approved respirators from 1919 to 1972. Beginning in 1972, there were a series of changes in the Federal agencies responsible for testing and approval. Since 1978 the U.S. Mine Safety and Health Administration (MSHA) of the U.S. Department of Labor, and the National Institute for Occupational Safety and Health (NIOSH) of the U.S. Department of Health, Education, and Welfare (now Health and Human Services), have granted joint approvals. MSHA and NIOSH established revised requirements in 30 CFR part 11 and set expiration dates for most of the respirators to which the Bureau of Mines had granted approvals.

On July 30, 1990, the Coast Guard published a Notice of Proposed Rulemaking (NPRM) in the **Federal Register** (55 FR 30935) that proposed updating the requirements of 46 CFR part 160, subpart 160.011, to reflect MSHA and NIOSH as the current agencies for testing and approval of respirators. The NPRM also proposed updating those requirements to reflect current ones from MSHA and NIOSH and to present safety standards of the shoreside fire-fighting industry.

It is generally recognized that only pressure-demand or other positive-pressure, self-contained breathing apparatus (SCBA) should be worn by people fighting interior fires. This high level of protection is necessary because the smoke generated by a fire contains unknown kinds and amounts of toxic materials. The NPRM proposed that the Coast Guard approve only pressure-demand or other positive-pressure SCBA for carriage aboard merchant vessels.

The regulations for tank vessels in 46 CFR 35.30-20 are obsolete in that they specify the carriage of approved fresh-air breathing apparatus (hose masks). Air flows to these masks from hand-operated or motor-operated air-blowers through long, large-diameter hoses. These masks had been approved by the Bureau of Mines for many years as suitable for use in hazardous atmospheres.

Although they originally did, MSHA and NIOSH no longer test and approve hose masks as suitable for use in hazardous atmospheres immediately dangerous to life or health (IDLH), such as cargo tanks of tank vessels. This reticence arises from concern that,

during low air-flow, negative pressure could occur in masks, permitting hazardous vapors to enter through leaks. Since cargo-tank entry is one of the intended uses for this equipment on tank vessels, and since approval by the Coast Guard depends upon approval by MSHA and NIOSH, the Coast Guard also terminated approval of those masks. This left an inconsistency in the regulations, specifically a carriage requirement for equipment no longer available with the appropriate approvals.

In 1980 the Coast Guard issued Navigation and Vessel Inspection Circular 13–80 to advise its personnel and the shipping industry that it would let approved pressure-demand SCBA satisfy the carriage requirements, in 46 CFR 35.30–20, for fresh-air breathing apparatus. The Circular was to provide guidance during revision of the applicable regulations.

Regulations have required gas masks (devices using canisters or cartridges) aboard some merchant vessels to protect against specific refrigerants used by those vessels. The standards of MSHA and NIOSH in 30 CFR part 11, subpart I, for approval of gas masks have not significantly changed. The NPRM contemplated updating the standards in 46 CFR part 160, subpart 160.011, for approval of gas masks by the Coast Guard, not removing gas masks from aboard merchant vessels. However, based upon responses to the NPRM, this final rule removes gas masks from aboard most merchant vessels, though it leaves them as elective equipment aboard such vessels for 2 years.

This final rule updates the standards for approval of SCBA; requires the use of SCBA, instead of fresh-air breathing apparatus, aboard tank vessels; and requires the use of SCBA, instead of gas masks, aboard certain other merchant vessels. Yet it allows the use of previously approved gear for 2 years as long as the gear is serviceable.

Discussion of Comments and Changes

Seven letters responded to the NPRM. The sources were two operators of vessels, a manufacturer of SCBA, a safety-equipment association, two Federal agencies, and a publisher of marine textbooks.

One comment asserted that approval by the Coast Guard as well as by MSHA and NIOSH would be redundant, that it would add cost without safety, that this cost would discourage manufacturers from seeking approval by the Coast Guard because of the limited marine market, and that therefore merchant seamen would lack superior SCBA. The comment also pointed out that the standards of MSHA an NIOSH include a weight limit and that for the Coast Guard to review the standards would be of little benefit. If approval by the Coast Guard is unnecessary, then obviously markings that show approval by the Coast Guard are unnecessary. Several comments sought clarification of the standards for approval.

The Coast Guard reviewed the standards of MSHA and NIOSH in 30 CFR part 11 for approval of devices intended for respiratory protection during entry into and escape from atmospheres deficient in oxygen or abundant in gases and vapors, the standards of the Coast Guard itself in 46 CFR part 160, subpart 160.011, for approval of such devices, and the records maintained under the latter subpart. In approving SCBA, the Coast Guard considers several factors either not covered in 30 CFR part 11 or lacking suitable standards: the physical bulk of the device, critical in the confined passageways of a ship; the potential of the device for igniting a combustible atmosphere; the minimum service-life rating of the device; and the presence or absence on the device of a full facepiece. However, a review of its records showed that it had not withheld approval from any device on account of these critical factors in over a decade, if the device met the minimum service-life rating and possessed a full facepiece.

Much of the market for SCBA belongs to shoreside fire departments, which are also concerned about the physical bulk of, and the potential for igniting a combustible atmosphere with, the SCBA. Market forces, therefore, have been driving manufacturers to develop lighter, lower-profile SCBA with no obvious potential for igniting a combustible atmosphere. The Coast Guard has concluded that separate approval of SCBA for use aboard merchant vessels is unnecessary and that this final rule may delete the standard for approval in subchapter Q without degrading marine safety.

Three comments agreed that only pressure-demand or other positive-pressure SCBA should be allowed because of the potential for exposure to atmospheres IDLH. In addition, NIOSH does not recommend closed-circuit devices for firefighting. Therefore, these requirements (that the SCBA be pressure-demand and open-circuit), along with requirements that it have a full facepiece and a minimum service-life rating of 30 minutes, now appear in each subchapter that requires a fireman's or emergency outfit.

Two comments recommended adopting all or parts of the "Standard on Self-Contained Breathing Apparatus for Fire Fighters" of the National Fire Protection Association (NFPA), NFPA 1981. This standard applies only to open-circuit SCBA and requires pressure-demand SCBA, a full facepiece, and approval by MSHA and NIOSH. In addition, it requires air-flow of 100 liters per minute (lpm) while that of MSHA and NIOSH requires air-flow of just 40 lpm. This higher air-flow ensures adequate air during high exertion such that positive pressure persists in the facepiece.

The Coast Guard reviewed NFPA 1981, compared it to the standard proposed for 46 CFR part 160, subpart 160.011, and made a cursory check of SCBA currently approved by the Coast Guard to see whether they would meet either standard. Again, NFPA 1981 applies only to open-circuit SCBA and requires air-flow of 100 lpm; further, it does not allow SCBA that can be switched between pressure-demand mode and positive-pressure mode (for donning and use).

No parallel standard for closed-circuit devices has been published. (The Coast Guard currently approves closed-circuit devices and would have to consider them separately.)

Adoption of NFPA 1981 would also make obsolete SCBA that the Coast Guard approves but that either would not meet the air-flow requirement or could be switched between pressure-demand mode and positive-pressure mode. (Manufacturers of SCBA will alter existing SCBA to meet NFPA 1981 for about $500 apiece.) These issues are beyond the scope of this rulemaking. Therefore, the Coast Guard is not now requiring that all SCBA meet NFPA 1981.

Also beyond the scope of this rulemaking are four issues raised by three comments: The inadequacy of SCBA rated at 30 minutes for use in large tankers; the need for maintenance, testing, and a supply of spare bottles or a means of refilling bottles at sea; the need for personnel training and fit-testing; and the use of the NIOSH Respirator Decision Logic (NIOSH 1981) for choosing respiratory protection before entering confined spaces. This rulemaking concerns updating standards for approval by the Coast Guard of breathing apparatus and gas masks, as well as updating requirements for type of equipment. The Coast Guard agrees that all of these issues should figure for each vessel on the basis of size, manning, and operation of each, but the Coast Guard does not have open a regulatory project to address these issues. (This does not preclude a responsible owner or operator from

instituting a complete program of respiratory protection. For more information on the choice, maintenance, and use of protective respirators, including the NIOSH Respirator Decision Logic, consult the "NIOSH Guide to Industrial Respiratory Protection," NIOSH Publication 87–116.)

One comment indicated that the rules in title 30, CFR, on testing and certifying respirators, were being revised; that, under proposed 42 CFR part 84 (52 FR 32402), NIOSH would be the sole agency for approving respirators, except for mine-emergency respirators; and that the Coast Guard should modify its rule to require the use of NIOSH-approved respirators upon promulgation of 42 CFR part 84. The Coast Guard has taken this comment under advisement.

One comment stated that harnesses on SCBA are neither designed nor intended for rescue of personnel in emergencies, and suggested requiring a suitable harness with each lifeline. A review of 30 CFR part 11 confirmed that the harnesses on SCBA are neither tested nor certified for rescue. Therefore, the Coast Guard has clarified the requirement of a lifeline to include a belt or a suitable harness.

Two comments pointed out that enlightened opinion no longer holds negative-pressure air-purifying respirators (gas masks) adequate for entry into spaces with atmospheres IDLH. Such atmospheres may form in the confined spaces of a reefer because of a refrigerant leak; indeed, this possibility is the reason behind the historic requirement for a gas mask.

Subchapter I–A, Mobile Offshore Drilling Units, requires, in 46 CFR 108.703, that each unit have a SCBA to use as protection against a refrigerant leak and lets each unit count the SCBA in the fireman's outfit as that SCBA. This approach reduces the amount of equipment that must be procured, maintained, and trained with. As virtually all inspected vessels that must have gas masks for protection against refrigerant leaks also have fireman's outfits, this final rule adopts the approach taken in subchapter I–A, concerning SCBA, for all subchapters, concerning gas masks.

One of the comments on refrigerants came from NIOSH and pointed out that chlorofluorocarbon 113 (more commonly known as CFC–113 or by the trade name Freon 113 |, Genetron |, Halocarbon 113 |, or Refrigerant 113 |) serves in the marine industry not only as a refrigerant but as a cleaning-solvent. CFC–113 does not warn of its presence (it is nearly odorless, and its irritant effects are only slight and transient at the permissible-exposure limit set by the Occupational Safety and Health Administration); has a high vapor-pressure, which results in hazardous concentrations of vapor, particularly in confined spaces; and is toxic at low concentrations. Each owner or operator of a vessel that uses CFC–113, whether as a refrigerant or as a cleaning-solvent, should obtain a copy of the NIOSH "Alert" entitled "Request for Assistance in Preventing Death from Excess Exposure to Chlorofluorocarbon 113 (CFC–113)". NIOSH documents are available from: Publications Dissemination, DSDTT; National Institute for Occupational Safety and Health; 4676 Columbia Parkway; Cincinnati, OH 45226; (513) 533–8287.

The existing regulations refer only to refrigeration systems using ammonia; they are silent with regard to refrigeration systems using fluorocarbons. Ammonia and fluorocarbons differ in that ammonia is a hazardous gas, while fluorocarbons simply displace oxygen in an atmosphere and are therefore asphyxiants. Existing Coast Guard policy (in the form of a letter dated February 6, 1987) for its inspectors and the marine industry, however, does refer to systems using ammonia and fluorocarbons. This rulemaking intends to incorporate that policy into the regulations.

The policy stated that the regulations in existence at the time governed every vessel with any refrigeration unit using ammonia to refrigerate any space with a volume of more than 20 cubic feet. It also stated that, for vessels with any refrigeration unit using fluorocarbons to refrigerate any space with a volume of more than 1000 cubic feet, a ratio between the amount of fluorocarbons in the system and the volume of the refrigerated space had to be calculated. The outcome of the calculation would then determine whether respiratory protection would be required. This policy for ammonia has been incorporated into this final rule; this policy for fluorocarbon systems has been too, but, for simplicity, without the calculation. This final rule will require that every vessel with any refrigeration unit using fluorocarbons to refrigerate any space with a volume or more than 1000 cubic feet be equipped with respiratory protection.

One comment recommended immediate steps to remove oxygen-generating (OBA-style) SCBA from commercial vessels and objected to the 3-year phase-out, observing that oxygen canisters pose potential hazards of fire or explosion in certain environments.

OBA-style SCBA have a long history of use aboard seagoing vessels because they are compact, their canisters are small and easy to store (compared to the bottles of air on most supplied-air SCBA), and they provide a long operating time for each charge (up to 45 minutes). The Coast Guard has withdrawn its approvals for these devices because MSHA and NIOSH have withdrawn their approvals for them. However, the Coast Guard has left them in use aboard merchant vessels governed by these subchapters as long as they are serviceable. Although they could present a hazard if not used or disposed of properly, this hazard is well known in the marine industry: no casualties have occurred involving them. To speed their removal from commercial vessels while allowing for their orderly replacement, this final rule limits their remaining service life to 2 years, the period for which most certificates of inspection are valid.

In the "grandfather" clauses for this final rule, the Coast Guard has been careful to ensure the removal of outdated existing equipment after 2 years while allowing other existing equipment to stay in use. Many of the SCBA currently aboard merchant vessels hold valid approvals from MSHA and NIOSH, as well as from the Coast Guard under subchapter Q. The Coast Guard does not intend replacement of this equipment under this rule.

One comment asked that "merchant vessel" be defined to clarify whether the final rule would apply to vessels such as icebreakers, supply vessels, or barges used to support drilling on the outer continental shelf.

While the preamble employs "merchant vessels" to generically describe its application, the final rule itself specifically applies to vessels inspected under 46 CFR subchapters D, H, I, I–A, R, and U. If a vessel falls within Coast Guard jurisdiction under one of those subchapters, the Coast Guard reviews the requirements for breathing apparatus relative to that vessel.

A final rule for uninspected commercial fishing industry vessels (under subchapter C) was published in the **Federal Register** (56 FR 40364) on August 14, 1991. That rule became effective on September 15, 1991; it included at 46 CFR 28.205 requirements for SCBA that anticipated those of this final rule but that did not anticipate them exactly. Therefore, this final rule originally aimed at, among many other things, updating § 28.205 with requirements like those applicable to the rest of the subchapters treated here. However, if those requirements became effective for uninspected commercial

fishing industry vessels, a number of those vessels not previously needing SCBA would have to obtain them. To allow the owners and operators of those potentially affected vessels the opportunity to comment on this proposed requirement, this final rule is not amending subchapter C. Instead, the updating of SCBA requirements for uninspected commercial fishing industry vessels will become the subject of a future notice of proposed rulemaking.

To implement this change—from approval by the Coast Guard to approval by MSHA and NIOSH—the Coast Guard reviewed and amended the requirements for respiratory equipment in Subchapters D, H, I, I–A, R, and U to provide for a phase-in.

For vessels inspected under subchapter D, Tank Vessels, the change amounts to a substitution of SCBA for hose masks.

For vessels inspected under Subchapter H, Passenger Vessels, the impact of this final rule appears to be more significant because the current regulations in 46 CFR part 77, subpart 77.30 (dating from 1952), allow the substitution of "Type N, Universal Gas Masks" for some SCBA on passenger vessels in domestic service. Under this final rule gas masks are no longer acceptable for fire-fighting. Further, the requirement for SCBA in 46 CFR 77.30–5, which allows the substitution of gas masks for some of them, applies only to vessels with staterooms for passengers. Few vessels remain in the U.S. domestic fleet that are inspected under Subchapter H and have staterooms. An informal survey of several offices of the Coast Guard that, under Subchapter H, regularly inspect vessels with staterooms for passengers found no instances in which gas masks are being used instead of SCBA. Therefore, the Coast Guard has determined that the impact of this change, if any, is minor.

For vessels inspected under Subchapter I, Cargo and Miscellaneous Vessels, this change amounts to an upgrade of the older SCBA left aboard, which were placed aboard before 1980, and to a substitution of SCBA for gas masks on vessels with large refrigeration units. As this final rule allows the SCBA required for fire-fighting also to be used for protection from refrigerants, the way they already are aboard vessels inspected under subchapter I–A, Mobile Offshore Drilling Units, the Coast Guard has determined that the impact of this change is minor.

Changes to subchapters I–A, R, and U follow those being made to subchapter I.

Drafting Information

The principal persons involved in drafting this document are Lieutenant Commander Mark A. Grossetti and Lieutenant Commander Mark G. VanHaverbeke, former Project Managers, both of the Office of Marine Safety, Security, and Environmental Protection, and Mr. Patrick J. Murray, Project Attorney, of the Office of Chief Counsel.

Regulatory Evaluation

This rulemaking is not major under Executive Order 12291 and not significant under the DOT Regulatory Policies and Procedures (44 FR 11034 (February 26, 1979)). The cost of a new SCBA, including a spare charge, was quoted by one major manufacturer as $2000. However, the information available to the Coast Guard indicates that the number of fresh-air breathing apparatus and SCBA that would have to be replaced by new, approved SCBA under this final rule is limited. As previously discussed, fresh-air breathing apparatus have not been allowed as new or replacement equipment since 1980. Therefore, the cost of this rulemaking to industry will be minimal, and, therefore, the Coast Guard considers a full regulatory evaluation to be unnecessary.

Small Entities

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

Collection of Information

This final rule deletes the requirements for collection of information now in 46 CFR part 160, subpart 160.011, and adds no new requirements subject to review by the Office of Management and Budget (OMB) under subsection 3504(h) of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

Environmental Impact

The Coast Guard has thoroughly reviewed this final rule and has determined it to be categorically excluded from further environmental documentation in accordance with section 2.B.2. of Commandant Instruction M16475.1B. It has prepared a Determination of Categorical Exclusion and has placed it in the rulemaking docket.

Federalism

The Coast Guard has analyzed this final rule in accordance with the principles and criteria in Executive Order 12612 and has determined that this rule does not have sufficient implications for federalism to warrant the preparation of a Federalism Assessment. This rule updates the requirements for approval and carriage of specific safety equipment aboard commercial vessels. The authority to regulate equipment aboard commercial vessels operating in U.S. waters is committed to the Coast Guard by statute. Furthermore, since commercial vessels tend to move from port to port in the national marketplace, approval and carriage requirements for safety equipment is a matter for which regulations should be of national scope to avoid unreasonably burdensome variances. Therefore, the Coast Guard intends this rule to preempt State action addressing the same matter.

List of Subjects

46 CFR Part 35

Cargo vessels, Marine safety, Navigation (water), Occupational safety and health, Reporting and recordkeeping requirements, Seamen.

46 CFR Part 77

Marine safety, Navigation (water), Passenger vessels.

46 CFR Part 96

Cargo vessels, Marine safety, Navigation (water).

46 CFR Part 108

Fire prevention, Marine safety, Occupational safety and health, Oil and gas exploration, Vessels.

46 CFR Part 160

Marine safety, Reporting and recordkeeping requirements.

46 CFR Part 167

Fire prevention, Marine safety, Reporting and recordkeeping requirements, Schools, Seamen, Vessels.

46 CFR Part 169

Fire prevention, Marine safety, Reporting and recordkeeping requirements, Schools, Vessels.

46 CFR Part 195

Marine safety, Navigation (water), Oceanographic research vessels.

For the reasons set out in the preamble, the Coast Guard amends title 46, chapter I, of the Code of Federal Regulations as follows:

PART 35—[AMENDED]

1. The citation of authority for part 35 continues to read as follows:

Authority: 33 U.S.C. 1321(j); 46 U.S.C. 3306, 3703, 6101; 49 U.S.C. App. 1804; E.O. 11735, 38 FR 21243, 3 CFR 1971–1975 Comp., p. 793; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; 49 CFR 1.46.

2. Section 35.30–20 is amended by revising paragraphs (c)(1), (c)(2), and (d) to read as follows:

§ 35.30–20 Emergency equipment—TB/ALL.

* * * * *

(c) * * *

(1) One pressure-demand, open-circuit, self-contained breathing apparatus, approved by the Mine Safety and Health Administration (MSHA) and by the National Institute for Occupational Safety and Health (NIOSH) and having at a minimum a 30-minute air supply, a full facepiece, and a spare charge.

(2) One lifeline with a belt or a suitable harness.

* * * * *

(d) A supplied-air respirator previously approved under part 160, subpart 160.011, of this chapter may continue in use used as required equipment until November 23, 1994, if it was part of the vessel's equipment on November 23, 1992, and as long as it is maintained in good condition to the satisfaction of the Officer in Charge, Marine Inspection. A self-contained compressed-air breathing apparatus previously approved by MSHA and NIOSH under part 160, subpart 160.011, of this chapter may continue in use as required equipment if it was part of the vessel's equipment on November 23, 1992, and as long as it is maintained in good condition to the satisfaction of the Officer in Charge, Marine Inspection.

* * * * *

3. Section 35.40–20 is revised to read as follows:

§ 35.40–20 Emergency equipment—TB/ALL.

Each locker and space where emergency equipment is stowed must be marked "EMERGENCY EQUIPMENT" or "SELF-CONTAINED BREATHING APPARATUS", as appropriate.

PART 77—[AMENDED]

4. The citation of authority for part 77 continues to read as follows:

Authority: 46 U.S.C. 3306; E.O. 12234, 45 FR 58801, 3 CFR 1980 Comp., p. 277; 49 CFR 1.46.

5. Section 77.30–1 is revised to read as follows:

§ 77.30–1 Application.

This subpart, except § 77.30–90, applies to each vessel that is not on an international voyage and is contracted for on or after November 23, 1992. Each vessel that is not on an international voyage and is contracted for before November 23, 1992, must satisfy § 77.30–90.

6. Section 77.30–5 is amended by revising paragraphs (a) and (b) to read as follows:

§ 77.30–5 General.

(a) Each self-contained breathing apparatus must be of the pressure-demand, open-circuit type, approved by the Mine Safety and Health Administration (MSHA) and the National Institute for Occupational Safety and Health (NIOSH), and have at a minimum a 30-minute air supply and a full facepiece.

(b) The self-contained breathing apparatus required as part of the emergency outfit may be used as protection against gas leaking from a refrigeration unit.

* * * * *

7. Section § 77.30–10 is amended by revising Table 77.30–10(a) and paragraph (b) to read as follows:

§ 77.30–10 Stowage.

* * * * *

TABLE 77.30–10(a)

Service	Number of passenger staterooms	Self-contained breathing apparatus	Self-contained breathing apparatus for refrigeration [1]	Flame safety lamps
Ocean and coastwise, not on an international voyage	0 to 49		1	
	50 to 100	4	1	
	Over 100	6	1	1
Great Lakes, and lakes, bays, and sounds	0 to 49		1	
	50 to 100	2	1	
	Over 100	4	1	1
Rivers	0 to 49		1	
	50 to 100	1	1	
	Over 100	2	1	1

[1] Required only on vessels equipped with any refrigeration unit using ammonia to refrigerate any space with a volume of more than 20 cubic feet or with any refrigeration unit using fluorocarbons to refrigerate any space with a volume of more than 1000 cubic feet.

(b) If a separate self-contained breathing apparatus is maintained for protection against gas leaking from a refrigeration unit, it must be stowed convenient to, but outside of, the spaces containing the refrigeration equipment.

* * * * *

8. Section 77.30–90 is revised to read as follows:

§ 77.30–90 Vessels contracted for before November 23, 1992.

Vessels contracted for before November 23, 1992, must meet the following requirements:

(a) Each vessel must satisfy §§ 77.30–5 through 77.30–15 concerning the number of items and the method of stowage of equipment.

(b) Items of equipment previously approved, but not meeting the applicable specifications set forth in § 77.30–5, may continue in service as long as they are maintained in good condition to the satisfaction of the Officer in Charge, Marine Inspection; but each item in an installation or a replacement must meet all applicable specifications.

(c) After November 23, 1994, each respirator must either satisfy § 77.30–5(a) or be a self-contained compressed-air breathing apparatus previously approved by MSHA and NIOSH under part 160, subpart 160.011, of this chapter.

9. Section 77.35–1 is revised to read as follows:

§ 77.35–1 Application.

This subpart, except § 77.35–90, applies to each vessel that is on an international voyage and is contracted for on or after November 23, 1992. Each vessel that is on an international voyage and is contracted for before November 23, 1992, must satisfy § 77.35–90.

10. Section 77.35–5 is amended by revising paragraph (b) to read as follows:

§ 77.35–5 General.

* * * * *

(b) Each self-contained breathing apparatus must be of the pressure-demand, open-circuit type, approved by the Mine Safety and Health Administration (MSHA) and the National Institute for Occupational Safety and Health (NIOSH), and have at a minimum a 30-minute air supply and a full facepiece.

* * * * *

11. Section 77.35–10 is amended by revising paragraph (a) to read as follows:

§ 77.35–10 Fireman's outfit.

(a) Each fireman's outfit must consist of one self-contained breathing apparatus, one lifeline with a belt or a suitable harness, one flashlight, one flame safety lamp, one rigid helmet, boots and gloves, protective clothing, and one fire ax.

* * * * *

12. Section 77.35–90 is revised to read as follows:

§ 77.35–90 Vessels contracted for before November 23, 1992.

Vessels contracted for before November 23, 1992, must meet the following requirements:

(a) Each vessel must satisfy §§ 77.35–5 through 77.35–20 concerning the number of items and the method of stowage of equipment.

(b) Items of equipment previously approved, but not meeting the applicable specifications set forth in § 77.35–5, may continue in service as long as they are maintained in good condition to the satisfaction of the Officer in Charge, Marine Inspection; but each item in an installation or a replacement must meet all applicable specifications.

(c) After November 23, 1994, each respirator must either satisfy § 77.35–5(b) or be a self-contained compressed-air breathing apparatus previously approved by MSHA and NIOSH under part 160, subpart 160.011, of this chapter.

PART 96—[AMENDED]

13. The citation of authority for part 96 continues to read as follows:

Authority: 46 U.S.C. 3306; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; 49 CFR 1.46.

14. Subpart 96.30 of part 96 is revised to read as follows:

Subpart 96.30—Protection From Refrigerants

96.30–1 Application.
96.30–5 General.
96.30–15 Self-contained breathing apparatus.
96.30–90 Vessels contracted for before November 23, 1992.

Subpart 96.30—Protection From Refrigerants

§ 96.30–1 Application.

(a) This subpart, except § 96.30–90, applies to each vessel that is contracted for on or after November 23, 1992, and is equipped with any refrigeration unit using—

(1) Ammonia to refrigerate any space with a volume of more than 20 cubic feet; or

(2) Fluorocarbons to refrigerate any space with a volume of more than 1000 cubic feet.

(b) Each vessel that is contracted for before November 23, 1992, must satisfy § 96.30–90 if it is equipped with any refrigeration unit using—

(1) Ammonia to refrigerate any space with a volume of more than 20 cubic feet; or

(2) Fluorocarbons to refrigerate any space with a volume of more than 1000 cubic feet.

§ 96.30–5 General.

(a) Each self-contained breathing apparatus must be of the pressure-demand, open-circuit type, approved by the Mine Safety and Health Administration (MSHA) and by the National Institute for Occupational Safety and by the National Institute for Occupational Safety and Health (NIOSH), and have at a minimum a 30-minute air supply, a full facepiece, and a spare charge.

(b) All equipment shall be maintained in an operative condition, and it shall be the responsibility of the master and chief engineer to ascertain that a sufficient number of the crew are familiar with the operation of the equipment.

§ 96.30–15 Self-contained breathing apparatus.

(a) Each vessel must have a self-contained breathing apparatus for use as protection against gas leaking from a refrigeration unit.

(b) The self-contained breathing apparatus required by paragraph (a) of this section may be one of those required by § 96.35–10.

§ 96.30–90 Vessels contracted for before November 23, 1992.

Vessels contracted for before November 23, 1992, must meet the following requirements:

(a) Each vessels must satisfy § § 96.30–5 through 96.30–15 concerning the number of items and method of stowage of equipment.

(b) Items of equipment previously approved, but not meeting the applicable specifications set forth in § 96.30–5, may continue in service as long as they are maintained in good condition to the satisfaction of the Officer in Charge, Marine Inspection; but each item in an installation or a replacement must meet all applicable specifications.

(c) After November 23, 1994, each respirator must either satisfy § 96.30–5(a) or be a self-contained compressed-air breathing apparatus previously approved by MSHA and NIOSH under part 160, subpart 160.011, of this chapter.

15. Section 96.35–1 is revised to read as follows:

§ 96.35–1 Application.

This subpart, except § 96.35–90, applies to each vessel that is on an international voyage and is contracted for on or after November 23, 1992. Each vessel that is on an international voyage and is contracted for before November 23, 1992, must satisfy § 96.35–90.

16. Section 96.35–5 is amended by revising paragraph (b) to read as follows:

§ 96.35–5 General.

* * * * *

(b) Each self-contained breathing apparatus must be of the pressure-demand, open-circuit type, approved by the Mine Safety and Health Administration (MSHA) and by the National Institute for Occupational Safety and Health (NIOSH), and have at a minimum a 30-minute air supply and full facepiece.

* * * * *

17. Section 96.35–10 is amended by revising paragraph (a) to read as follows:

§ 96.35–10 Fireman's outfit.

(a) Each fireman's outfit must consist of one self-contained breathing apparatus, one lifeline with a belt or a suitable harness, one flashlight, one flame safety lamp, one rigid helmet,

boots and gloves, protective clothing, and one fire ax.

* * * * *

18. Section 96.35–90 is revised to read as follows:

§ 96.35–90 Vessels contracted for before November 23, 1992.

Vessels contracted for before November 23, 1992, must meet the following requirements:

(a) Each vessel must satisfy § § 96.35–5 through 96.35–20 concerning the number of items and method of stowage of equipment.

(b) Items of equipment previously approved, but not meeting the applicable specifications set forth in § 96.35–5, may continue in service as long as they are maintained in good condition to the satisfaction of the Officer in Charge, Marine Inspection; but each item in an installation or a replacement must meet all applicable specifications.

(c) After November 23, 1994, each respirator must either satisfy § 96.35–5(b) or be a self-contained compressed-air breathing apparatus previously approved by MSHA and NIOSH under part 160, subpart 160.011, of this chapter.

PART 108—[AMENDED]

19. The citation of authority for part 108 continues to read as follows:

Authority: 43 U.S.C. 1333; 46 U.S.C. 3120, 3306, 5155; 49 CFR 1.46.

20. Section 108.497 is amended by revising paragraphs (a) and (d)(1) as follows:

§ 108.497 Fireman's outfits.

* * * * *

(a) A pressure-demand, open-circuit, self-contained breathing apparatus, approved by the Mine Safety and Health Administration (MSHA) and by the National Institute for Occupational Safety and Health (NIOSH) and having at a minimum a 30-minute air supply, a full facepiece, and a spare charge; but a self-contained compressed-air breathing apparatus previously approved by MSHA and NIOSH under part 160, subpart 160.011, of this chapter may continue in use as required equipment if it was part of the vessel's equipment on November 23, 1992, and as long as it is maintained in good condition to the satisfaction of the Officer in Charge, Marine Inspection;

* * * * *

(d) * * *

(1) Is attached to a belt or a suitable harness;

* * * * *

21. Section 108.703 is amended by revising paragraph (a) to read as follows:

§ 108.703 Self-contained breathing apparatus.

(a) Each unit must be equipped with a self-contained breathing apparatus described in § 108.497(a) to use as protection against gas leaking from a refrigeration unit if it is equipped with any refrigeration unit using—

(1) Ammonia to refrigerate any space with a volume of more than 20 cubic feet; or

(2) Fluorocarbons to refrigerate any space with a volume of more than 1000 cubic feet.

* * * * *

PART 160—[AMENDED]

22. The citation of authority for part 160 continues to read as follows:

Authority: 46 U.S.C. 3306, 3703, 4104, and 4302; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; 49 CFR 1.46.

Subpart 160.011—[Removed and Reserved]

23. Subpart 160.011 of part 160 is removed and reserved.

PART 167—[AMENDED]

24. The citation of authority for part 167 continues to read as follows:

Authority: 46 U.S.C. 3306, 6101, 8105; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; 49 CFR 1.46.

25. Section 167.45–60 is revised to read as follows:

§ 167.45–60 Emergency breathing apparatus and flame safety lamps.

Each nautical-school ship must be equipped with the following devices:

(a) Two pressure-demand, open-circuit, self-contained breathing apparatus, approved by the Mine Safety and Health Administration (MSHA) and by the National Institute for Occupational Safety and Health (NIOSH) and having at a minimum a 30-minute air supply, a full facepiece, and a spare charge for each. A supplied-air respirator previously approved under part 160, subpart 160.011, of this chapter may continue in use as required equipment until November 23, 1994, if it was part of the vessel's equipment on November 23, 1992, and as long as it is maintained in good condition to the satisfaction of the Officer in Charge, Marine Inspection. A self-contained compressed-air breathing apparatus previously approved by MSHA and NIOSH under part 160, subpart 160.011, of this chapter may continue in use as required equipment if it was part of the vessel's equipment on November 23, 1992, and as long as it is maintained in good condition to the satisfaction of the Officer in Charge, Marine Inspection.

(b) One flame safety lamp approved by the Coast Guard or Navy.

PART 169—[AMENDED]

26. The citation of authority for part 169 continues to read as follows:

Authority: 33 U.S.C. 1321(j); 46 U.S.C. 3306, 5115, 6101; E.O. 11735, 38 FR 21243, 3 CFR, 1971–1975 Comp., p. 793; 49 CFR 1.45, 1.46; § 169.117 also issued under the authority of 44 U.S.C. 3507.

27. Section 169.717 is amended by revising paragraph (a) to read as follows:

§ 169.717 Fireman's outfit.

(a) Each vessel greater than 120 feet but less than 150 feet in length must carry one fireman's outfit consisting of—

(1) One pressure-demand, open-circuit, self-contained breathing apparatus, approved by the Mine Safety and Health Administration (MSHA) and by the National Institute for Occupational Safety and Health (NIOSH) and having at a minimum a 30-minute air supply and a full facepiece; but a self-contained compressed-air breathing apparatus previously approved by MSHA and NIOSH under part 160, subpart 160.011, of this chapter may continue in use as required equipment if it was part of the vessel's equipment on November 23, 1992, and as long as it is maintained in good condition to the satisfaction of the Officer in Charge, Marine Inspection;

(2) One lifeline with a belt or a suitable harness;

(3) One approved flame safety lamp;

(4) One flashlight listed by an independent testing laboratory as suitable for use in hazardous locations;

(5) One fire ax;

(6) Boots and gloves of rubber or other electrically nonconducting material;

(7) A rigid helmet that provides effective protection against impact; and

(8) Protective clothing.

* * * * *

PART 195—[AMENDED]

28. The citation of authority for part 195 continues to read as follows:

Authority: 46 U.S.C. 2113, 3306; 49 U.S.C. App. 1804; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; 49 CFR 1.46.

29. Subpart 195.30 of part 195 is revised to read as follows:

Subpart 195.30—Protection From Refrigerants

195.30–1 Application.
195.30–5 General.
195.30–15 Self-contained breathing apparatus.
195.30–90 Vessels contracted for before November 23, 1992.

Subpart 195.30—Protection From Refrigerants

§ 195.30–1 Application.

(a) This subpart, except § 195.30–90, applies to each vessel that is contracted for on or after November 23, 1992, and is equipped with any refrigeration unit using—

(1) Ammonia to refrigerate any space with a volume of more than 20 cubic feet; or

(2) Fluorocarbons to refrigerate any space with a volume of more than 1000 cubic feet.

(b) Each vessel that is contracted for before November 23, 1992, must satisfy § 195.30–90 if it is equipped with any refrigeration unit using—

(1) Ammonia to refrigerate any space with a volume of more than 20 cubic feet, or

(2) Fluorocarbons to refrigerate any space with a volume of more than 1000 cubic feet.

§ 195.30–5 General.

(a) Each self-contained breathing apparatus must be of the pressure-demand, open-circuit type, approved by the Mine Safety and Health Administration (MSHA) and by the National Institute for Occupational Safety and Health (NIOSH), and have at a minimum a 30-minute air supply, a full facepiece, and a spare charge.

(b) All equipment shall be maintained in an operative condition, and it shall be the responsibility of the master and chief engineer to ascertain that a sufficient number of the crew are familiar with the operation of the equipment.

§ 195.30–15 Self-contained breathing apparatus.

(a) Each vessel must have a self-contained breathing apparatus for use as protection against gas leaking from a refrigeration unit.

(b) The self-contained breathing apparatus required by paragraph (a) of this section may be one of those required by § 195.35–10.

§ 195.30–90 Vessels contracted for before November 23, 1992.

Vessels contracted for before November 23, 1992, must meet the following requirements:

(a) Each vessel must satisfy §§ 195.30–5 through 195.30–15 concerning the number of items and method of stowage of equipment.

(b) Items of equipment previously approved, but not meeting the applicable specifications set forth in § 195.30–5, may continue in service as long as they are maintained in good condition to the satisfaction of the Officer in Charge, Marine Inspection; but each item in an installation or a replacement must meet all applicable specifications.

(c) After November 23, 1994, each respirator must either satisfy § 195.30–5(a) or be a self-contained compressed-air breathing apparatus previously approved by MSHA and NIOSH under part 160, subpart 160.011, of this chapter.

30. Section 195.35–1 is revised to read as follows:

§ 195.35–1 Application.

(a) This subpart, except § 195.35–90, applies to each vessel, other than an unmanned barge, contracted for on or after November 23, 1992.

(b) Each vessel, other than an unmanned barge, contracted for before November 23, 1992, must satisfy § 195.35–90.

(c) All unmanned barges are exempt from the requirements in this subpart. However, if any unmanned barge carries a fireman's outfit, the outfit must meet the requirements in this subpart for such outfits aboard manned barges.

31. Section 195.35–5 is amended by revising paragraph (b) to read as follows:

§ 195.35–5 General.

* * * * *

(b) Each self-contained breathing apparatus must be of the pressure-demand, open-circuit type, approved by the Mine Safety and Health Administration (MSHA) and by the National Institute for Occupational Safety and Health (NIOSH), and have at a minimum a 30-minute air supply and a full facepiece.

* * * * *

32. Section 195.35–10 is amended by revising paragraph (a) to read as follows:

§ 195.35–10 Fireman's outfit.

(a) Each fireman's outfit must consist of one self-contained breathing apparatus, one lifeline with a belt or a suitable harness, one flashlight, one flame safety lamp, one rigid helmet, boots and gloves, protective clothing, and one fire ax.

* * * * *

33. Section 195.35–90 is revised to read as follows:

§ 195.35–90 Vessels contracted for before November 23, 1992.

Vessels contracted for before November 23, 1992, must meet the following requirements:

(a) Each vessel must satisfy §§ 195.35–5 through 195.35–20 concerning the number of items and method of stowage of equipment.

(b) Items of equipment previously approved, but not meeting the applicable specifications set forth in § 195.35–5, may continue in service as long as they are maintained in good condition to the satisfaction of the Officer in Charge, Marine Inspection; but each item in an installation or a replacement must meet all applicable specifications.

(c) After November 23, 1994, each respirator must either satisfy § 195.35–5(b) or be a self-contained compressed-air breathing apparatus previously approved by MSHA and NIOSH under part 160, subpart 160.011, of this chapter.

Dated: September 9, 1992.

A.E. Henn,

Rear Admiral, U.S. Coast Guard, Chief, Office of Marine Safety, Security and Environmental Protection.

[FR Doc. 92–25755 Filed 10–22–92; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[PP 6E3447/R1159; FRL–4159–6]

RIN 2070–AB78

Pesticide Tolerance for Cadusafos

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This document establishes a 2-year time-limited tolerance for residues of the nematicide/insecticide cadusafos, *O*-ethyl *S,S*- bis(1-methylpropyl) phosphorodithioate, in or on the raw agricultural commodity (RAC) bananas at 0.01 part per million (ppm). This regulation to establish a maximum permissible level for residues of the nematicide/insecticide was requested by the FMC Corp.

EFFECTIVE DATE: This regulation becomes effective October 23, 1992.

ADDRESSES: Written objections, identified by the document control number, [PP 6E3447/R1159], may be submitted to: Hearing Clerk (A-110), Environmental Protection Agency, rm.

M3708, 401 M St., SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: By mail: Robert A. Forrest, Product Manager (PM 14), Registration Division, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 219, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703)-305-6600.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of July 8, 1992 (57 FR 30180), EPA issued a proposed rule that gave notice that the FMC Corp., Agricultural Chemical Group, 200 Market St., Philadelphia, PA 19103, had submitted pesticide petition (PP) 6E3447 to EPA. The petitioner requested that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a(e)), propose the establishment of an import tolerance for residues of the nematicide/insecticide ebufos (changed to cadusafos in this final rule) in or on the RAC bananas at 0.01 ppm.

The following comments were received from the petitioner, FMC Corp. There were no requests for referral to an advisory committee received in response to the proposed rule.

1. FMC requested that the final rule utilize the current accepted common name, cadusafos, for the nematicide/insecticide.

2. FMC noted that the residue methodology data using the Food and Drug Administration pesticide multiresidue method protocols have since been submitted to the Agency. These data were identified as lacking in the proposed rule for this tolerance.

The Agency acknowledges cadusafos as the accepted common name for this nematicide/insecticide, and the final rule is revised to reflect the new name. It is also noted that the multiresidue data have now been received by the Agency.

The data submitted in the petition and other relevant material have been evaluated and discussed in the proposed rule. Based on the data and information considered, the Agency concludes that the tolerance will protect the public health. Therefore, the tolerance is established as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication of this document in the **Federal Register**, file written objections with the Hearing Clerk, at the address given above (40 CFR 178.20). The objections submitted must specify the provisions of the regulation deemed objectionable and the grounds for the objections (40 CFR 178.25). Each objection must be accompanied by the fee prescribed by 40 CFR 180.33(i). If a hearing is requested, the objections must include a statement of the factual issue(s) on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the objector (40 CFR 178.27). A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is a genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established, resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issue(s) in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32).

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-354, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: September 25, 1992.

Douglas D. Campt,
Director, Office of Pesticide Programs.

Therefore, 40 CFR part 180 is amended as follows:

PART 180—[AMENDED]

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 346a and 371.

2. By adding new § 180.461 to subpart C, to read as follows:

§ 180.461 Cadusafos; tolerances for residues.

(a) [Reserved]

(b) A time-limited tolerance to expire on October 24, 1994 is established for residues of the nematicide/insecticide cadusafos, *O*-ethyl *S,S*-bis(1-methylpropyl) phosphorodithioate, in or on the following raw agricultural commodity:

Commodity	Parts per million
Bananas	0.01

There are no U.S. registrations as of October 23, 1992.

[FR Doc. 92-25776 Filed 10-22-92; 8:45 am]

BILLING CODE 6560-50-F

GENERAL SERVICES ADMINISTRATION

41 CFR Part 101-37

[FPMR Amendment G-98]

Government Aviation Administration and Coordination

AGENCY: Federal Supply Service, GSA.

ACTION: Final rule.

SUMMARY: This regulation recommends procedures for conducting investigations and for reporting accidents involving agency aircraft including the preservation of aircraft wreckage, records, mail, and cargo. These procedures are recommended for all Government-owned, leased, chartered and rented aircraft and related services operated by executive branch agencies. This regulation is issued because there are no existing guidelines covering aircraft accident investigation and reporting procedures for Government-owned, leased, chartered and rented aircraft. These guidelines will clarify procedures for conducting accident investigations and reports.

EFFECTIVE DATE: This regulation is effective October 23, 1992.

FOR FURTHER INFORMATION CONTACT: Bonnie Seybold, Aviation Policy Branch (FBXA), Transportation Management Division, Federal Supply Service, General Services Administration, Washington, DC 20406, (703-305-6022).

SUPPLEMENTARY INFORMATION: GSA has determined that this is not a major rule for the purposes of Executive Order 12291 of February 17, 1981, because it is not likely to result in an annual effect on the economy of $100 million or more; a major increase in costs to consumers or others; or significant adverse effects. GSA has based all administrative decisions underlying this rule on adequate information concerning the need for and consequences of this rule; has determined that the potential benefits to society from this rule outweigh the potential costs and has

maximized the net benefits; and has chosen the alternative approach involving the least net cost to society.

List of Subjects in 41 CFR Part 101-37

Aircraft, Air transportation, Aviation, Government property management.

For the reasons set out in the preamble, 41 CFR part 101-37 is amended as set forth below:

PART 101-37—GOVERNMENT AVIATION ADMINISTRATION AND COORDINATION

1. The authority citation for part 101-37 is revised to read as follows:

Authority: Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c); the Budget and Accounting Act of 1921, as amended; the Budget and Accounting Procedures Act of 1950, as amended; Reorganization Plan No. 2 of 1970; Executive Order 11541; and OMB Circular No. A-126 (Revised May 22, 1992).

2. Section 101-37.000 is revised to read as follows:

§ 101-37.000 Scope of part.

(a) The provisions of this part prescribe policies and procedures and make recommendations for executive agencies governing the efficient and effective management and utilization of Government-owned, leased, chartered and rented aircraft and related support services.

(b) Agencies are responsible for establishing clear accountability for aircraft management at a senior management level.

Subpart 101-37.11—Accident and Incident Reporting and Investigation

3. Section 101-37.1100 is revised to read as follows:

§ 101-37.1100 General.

The primary purpose of this subpart is to establish policies and procedures for aircraft accident/incident prevention and to build or enhance aviation safety programs. This subpart recommends procedures for:

(a) Conducting accident/incident investigations;

(b) Preparing factual and evaluative reports;

(c) Preserving aircraft wreckage, cargo, and mail; and

(d) Establishing standards and qualifications for accident and incident investigators.

4. Section 101-37.1101 is revised to read as follows:

§ 101-37.1101 Definitions.

As prescribed in 49 CFR 830.2, and this subpart 101-37.11, the following definitions apply:

Agency aircraft means an aircraft used exclusively in the service of any executive agency or entity thereof, exclusive of the Armed Forces. For the purposes of this subpart "used exclusively in the service of" means an aircraft which is:

(1) Owned and operated by any executive agency or entity thereof, or

(2) Exclusively leased, chartered, rented, bailed, contracted and operated by any executive agency.

Aircraft accident means an occurrence associated with the operation of an agency aircraft which takes place between the time any person boards the aircraft with the intention of flight and the time all such persons have disembarked the result of which any person suffered death or serious injury, or the aircraft received substantial damage.

Civil aircraft means any aircraft other than a public aircraft (see 14 CFR 1.1 for definition of public aircraft.)

Fatal injury means any injury which results in death within 30 days of the accident.

Incident means an occurrence, other than an accident, associated with the operation of an agency aircraft which affects or could affect the safety of operations.

Intelligence agencies refers to the following agencies or organizations:

(1) Central Intelligence Agency;

(2) National Security Agency;

(3) Defense Intelligence Agency;

(4) Offices within the Department of Defense for the collection of specialized national foreign intelligence through reconnaissance programs;

(5) The Bureau of Intelligence and Research of the Department of State;

(6) Intelligence elements of the Army, Navy, Air Force, Marine Corps, Federal Bureau of Investigation, Drug Enforcement Administration, Department of Treasury, and Department of Energy; and

(7) The staff elements of the Director of Central Intelligence.

Investigator-in-charge means the investigator who organizes, conducts, and controls the investigation in the field. This investigator is responsible for supervising and coordinating all resources and the activities of all personnel involved in the onsite investigation.

Operating agency means an executive agency or any entity thereof using agency aircraft which it does not own.

Operator means any person who causes or authorizes the operation of an agency aircraft, such as the owner, lessee, or bailee of an aircraft.

Serious injury means any injury which requires hospitalization for more than 48 hours, commencing within 7 days from the date the injury was received; results in a fracture of any bone (except simple fractures of fingers, toes, or nose); causes severe hemorrhages, nerve, muscle, or tendon damage; involves any internal organ; or involves second- or third-degree burns, or any burns affecting more than 5 percent of the body surface.

Substantial damage means damage or failure which adversely affects the structural strength, performance, or flight characteristics of the agency aircraft and which would normally require major repair or replacement of the affected component(s). Engine failure or damage limited to an engine if only one engine fails or is damaged, bent fairings or cowling, dented skin, small punctures in the skin or fabric, ground damage to rotor or propeller blades, and damage to landing gear, wheels, tires, flaps, engine accessories, brakes or wingtips are not considered "substantial damage" for purposes of this subpart.

5. Section 101-37.1102 is added to read as follows:

§ 101-37.1102 Initial notification of aircraft accidents, incidents, and overdue agency aircraft.

The operator of the agency aircraft shall immediately, and by the most expeditious means available, notify the executive operating agency when any of the accidents or incidents listed in § 101-37.1105 occur. The executive operating agency shall file a report on NTSB Form 6120.1/2 within 10 calendar days after an accident or incident in accordance with 49 CFR part 830.

6. Section 101-37.1104 is added to read as follows:

§ 101-37.1104 Preservation of agency aircraft wreckage, cargo, mail, and records.

Agency aircraft wreckage, cargo, mail, and records should be preserved as follows:

(a) The operator of an agency aircraft involved in an accident or incident for which notification must be given to the National Transportation Safety Board (NTSB) (see 49 CFR part 830), is responsible for preserving to the extent possible any agency aircraft wreckage, cargo, mail, and all records, including all recording mediums of flight, maintenance, and voice recorders, pertaining to the airmen and to the operation and maintenance of the agency aircraft until the investigator-in-charge takes custody thereof.

(b) Prior to the time the investigator-in-charge takes custody of agency aircraft wreckage or cargo, such

wreckage or cargo may not be disturbed or moved except to the extent necessary to remove persons injured or trapped; protect the wreckage from further damage; or protect the public from injury.

(c) When it is necessary to move agency aircraft wreckage or cargo, sketches, descriptive notes, and photographs shall be made, if possible, of the original positions and condition of the wreckage and any significant impact marks.

(d) The operator inovled in an accident or incident should retain all records, reports, internal documents, and memoranda dealing with the accident or incident until directed otherwise by the investigator-in-charge.

7. Section 101–37.1105 is amended by revising the heading, the introductory text, paragraph (a)(6) and the introductory text of paragraph (a)(7) to read as follows:

§ 101-37.1105 Reporting of agency aircraft accidents and incidents.

The operator of an agency aircraft other than an aircraft of the Armed Forced or intelligence agencies (see definition in § 101–37.1101) shall file a report on NTSB Form 6120.1/2 (OMB No. 3147–001) (49 CFR part 830) within 10 days after the accident or incident listed below: (The operator shall file the report with the field office of the NTSB nearest the accident or incident.)

(a) * * *

(6) Damage to property, other than the agency aircraft, estimated to exceed $25,000 for repair (including materials and labor) or fair market value in the event of total loss, whichever is less; and

(7) For large multiengined aircraft (more than 12,500 pounds maximum certificated takeoff weight), there shall be immediate notification when:

* * * * *

8. Section 101–37.1106 is added as follows:

§ 101-37.1106 Accident and incident investigation procedures.

The policies on agency aircraft accident/incident investigations are as follows:

(a) For the purposes of this regulation, accident and incident investigations are factfinding proceedings for accident prevention with no formal issues and no adverse parties and not adjudications of the rights or liabilities of any person. Therefore, these investigations are not intended to be subject to the provisions of the Administrative Procedures Act (Pub. L. 89–554, 80 Stat. 384 (5 U.S.C. 554 et seq.)).

(b) The operating agency is responsible for the conduct of an investigation of all accidents/incidents involving agency aircraft. Agencies may utilize in-house resources or enter into agreements with the NTSB, another agency, or a commercial contractor for the conduct of accident/incident investigations. The investigator-in-charge shall meet the standards prescribed in § 101–37.1107. These investigations shall be conducted primarily to determine the probable causes for accidents/incidents, and secondarily to obtain and preserve available factual evidence.

(c) Responsibility of the operating agency. (1) The operating agency is responsible for the organization, conduct, and control of all agency aircraft accident/incident investigations involving the agency's aircraft.

(2) The Federal Aviation Administration (FAA) may conduct aviation investigations in accordance with appendix A of the Reimbursable Memorandum of Agreement between the Department of Transportation and the NTSB. Copies of the memorandum of agreement may be obtained from the National Transportation Safety Board, 490 L'Enfant Plaza East, SW, Washington, DC 20594. Investigation of an accident or incident involving agency aircraft of U.S. registry in a foreign state is at the discretion of the NTSB and applicable conventions.

(3) The operating agency shall pay expenses pertaining to the accident or incident investigation except as provided by separate agreement such as travel, investigator overtime, laboratory expense, etc.

(d) Nature of investigation. Accident or incident investigations are conducted by operating agencies in order to determine the facts, conditions, and circumstances relating to each accident or incident, the probable cause(s) thereof, and measures which will best prevent similar accidents or incidents in the future. The investigation includes the field investigation and report preparation.

(e) Priority of NTSB conducted investigations. When the NTSB is conducting the investigation pursuant to an agreement with an executive agency, the NTSB will provide for the appropriate participation by the operating agencies in any such investigation and said agencies will be offered the opportunity to submit proposed findings for the NTSB's consideration in determining the probable cause(s) of the accident. To the extent agencies conduct a separate investigation of an accident or incident involving agency aircraft, the investigation must not interfere with the investigation by the NTSB and must comply with the requirements of this part.

(f) The NTSB and other executive agencies will ensure that appropriate factual information obtained or developed in the course of their investigations is exchanged in a timely manner. Information developed through analysis and lab work shall be coordinated with operating agencies for the conduct of the evaluative report required by this subpart.

(g) Request to withhold information. Any person may make written objection to the public disclosure of information contained in any report or document filed, or of information obtained by the NTSB or investigating agency, stating the grounds for such objection. The investigating agency may withhold from public disclosure information that can be withheld under the provisions of the Freedom of Information Act (5 U.S.C. 552). Information may be withheld if privileged or classified, for example, for national security reasons. The inaccessibility to such material or classified information is not sufficient reason to prevent the normal course of the investigation.

(h) Authority of the investigating agency. Any employee of the investigating agency, upon presenting appropriate credentials after obtaining the owner's consent may enter any property wherein an agency aircraft accident has occurred or wreckage from any such accident is located to conduct an investigation. The investigating agency should examine any pertinent records, including documents, papers, medical files, hospital records, and correspondence, relevant to the accident/incident. Authorized representatives of the investigating agency may question any person having knowledge relevant to an aircraft accident/incident. The investigating agency should examine and test to the extent necessary any non-military agency aircraft parts, aircraft engine, propeller, appliance, or Government property aboard an aircraft involved in an accident involving an agency aircraft.

(i) Participants to the field investigation. (1) The investigator-in-charge may designate participants in the field investigation. Participants should be limited to those persons, Government agencies, companies, and associations whose employees, functions, activities, or products were involved in the accident or incident and who can provide suitable qualified technical personnel to actively assist in the field investigation. In a NTSB investigation, a

representative of the operating agency shall be invited to participate in the NTSB investigation, subject to the supervision of the NTSB's investigator.

(2) No participant in the field investigation designated under paragraph (a) of this section should be represented by any person who also represents claimants or insurers. Failure to comply with this provision shall result in loss of status as a participant in the investigation.

(j) Access to and release of wreckage, records, mail, and cargo. (1) Only the investigating agency's accident investigation personnel and persons authorized by the investigator-in-charge to participate in any particular investigation, examination, or testing shall be permitted access to wreckage, records, mail, or cargo which is in the agency's custody.

(2) Wreckage, records, mail, and cargo in the custody of the investigator-in-charge shall be released by an authorized representative of the investigating agency when it is determined that the investigating agency has no further need of such wreckage, records, mail, or cargo.

(k) Release and dissemination of accident information. (1) Release of factual information during the field investigation, particularly at the accident scene, shall be in accordance with the investigating agency's procedures.

(2) All information concerning the accident or incident obtained by any personnel participating in the field investigation shall be passed to the investigator-in-charge, through appropriate channels. Upon approval of the investigator-in-charge, parties to the investigation may relay to their respective organization information which is necessary for prevention or remedial action. Under no circumstances shall accident information be released to or discussed with unauthorized persons whose knowledge thereof might adversely affect the investigation.

(l) Proposed findings. Any person, Government agency, company, or association whose employees, functions, activities, or products were involved in an accident under investigation may submit to the investigating agency, prior to the consideration of probable cause, proposed findings to be drawn from the evidence produced during the course of the accident investigation, a proposed probable cause, and proposed safety recommendations designed to prevent future accidents.

9. Section 101–37.1107 is added as follows:

§ 101–37.1107 Aircraft accident and incident investigator classifications and qualification standards and qualification levels.

The following classifications and qualification standards, together with the aircraft accident factors, are recommended for those individuals designated or assigned to investigate aircraft accidents/incidents. These individuals do not have to be full-time accident/incident investigators. These standards should be used as a guide to ensure that qualified personnel conduct accident investigations; however, they do not supersede those job classification series prescribed by the Office of Personnel Management.

(a) Each person selected to investigate aircraft accidents and incidents should have a level of aviation related knowledge and experience appropriate to meet the qualifications prescribed in paragraphs (a) (1) through (3) of this section. An investigator beginning at the trainee level must take a recognized course in basic aircraft accident investigation which, as a minimum, consists of 80 hours of instruction in aircraft accident investigation theory and application. All investigators shall continue their aviation education through classes, courses, or seminars to keep abreast with new technology, investigative techniques, and governing regulations. This will enable them to perform at the Air Safety Investigator and Senior Air Safety Investigator levels.

(1) *Trainee.* A trainee shall have general knowledge of the basic fundamentals of aviation and be employed in the field of aviation. This person shall work under the direct supervision of an ASI when performing accident investigation functions.

(2) *Air Safety Investigator (ASI).* An Air Safety Investigator (ASI) shall have from 2 to 5 years experience and have participated in, as a minimum, two aviation accident investigations. The ASI shall be capable of performing accident investigations, preparing a factual and evaluative report, and making meaningful safety recommendations, where appropriate. This person would be able to act as investigator-in-charge of most accidents and incidents.

(3) *Senior Air Safety Investigator (SASI).* A Senior Air Safety Investigator (SASI) shall have over 5 years experience in accident investigations and be able to direct and lead teams investigating the most complex accidents involving high technology aircraft, under the most difficult conditions, worldwide.

(b) The following factors involved in an aircraft accident that affect the difficulty of the investigation are listed in (generally) increasing complexity. These factors should be considered when assigning an investigator to an accident and are presented as guidance only to the convening authority within the investigating agency.

(1) *Aircraft type.* (Fixed-wing) General aviation single-engine, general aviation multi-engine, commercial multi-engine, commercial turbo-prop, commercial jet, 1st generation air carrier, 2nd generation air carrier, 3rd generation air carrier, fighter, research aircraft. (Helicopter) Light helicopter, medium helicopter, large helicopter.

(2) *Environment.* Visual flight conditions, instrument flight conditions, restrictions to visibility, high velocity or cross winds, thunderstorms, windshear, or unusual weather phenomena; i.e., tornadoes, hurricanes, etc.

(3) *Segment.* Taxi, visual flight rules (VFR), instrument flight rules (IFR), en route, takeoff, approach/landing, air traffic control zones, restricted areas.

(4) *Type.* (Injury) Non-injury, serious injury, fatality. (Damage) Minor/no aircraft damage, substantial aircraft damage, aircraft destroyed, in-flight breakups. (Fire) No fire, post.

(5) *Location.* Rural, suburban, urban, municipal airport, military base, international airport, large metropolitan area.

(6) *Public interest.* General aviation, business, commercial, commuter, air carrier, collisions, any of the above with a public figure on board.

10. Section 101–37.1108 is added as follows:

§ 101–37.1108 Accident and incident investigation reports.

The policies governing aircraft accident/incident investigation reports are as follows:

(a) The operating agency or its designated investigating entity; e.g., NTSB, commercial contractors, etc., should prepare reports for all accidents/incidents involving agency aircraft that such agency or entity investigates.

(b) The factual report and the evaluative report are the responsibility of the operating agency. Agencies may establish agreements for the preparation of the factual and evaluative reports with the qualified in-house resources, commercial contractors, and/or another agency pursuant to an interagency agreement.

(1) *Factual report.* The purpose of this report is to assemble all available facts about an accident/incident so that conclusions as to probable cause(s) can

be made, and secondarily for use in other proceedings outside the area of accident/incident prevention. This report does not contain opinions, conclusions, or recommendations of the investigator(s) concerning any aspect of the accident/incident and should be made available to any government agency and/or private individuals or groups. When agencies conduct investigations, a copy of the narrative summary will be provided to the NTSB. This report includes only a factual narrative summary prepared by the investigator(s), all factual material collected by the investigator(s), and a list of all known witnesses. Privileged material such as proprietary material of manufacturers shall be attached in sealed addenda and released only as appropriate. The factual summary prepared by the investigator(s) should give an overview of the pertinent facts contained in the factual report. Normally, the summary should include, but is not limited to:

(i) Accident/incident identification, including aircraft number and type, date, and time of accident/incident;

(ii) History of flight/operation, including the flight's origin, course, destination, time of departure, and time of termination;

(iii) Purpose of flight;

(iv) Briefing and pre-flight, including crew rest, description of any briefing and pre-flight procedures;

(v) Flight, including flight plan, communications, navigation, aircraft parameters (altitude, speed, etc.), and weather;

(vi) Impact, including description of time, date, aircraft altitude, airspeed, angle of attack, and related facts at time of impact;

(vii) Personal and survival equipment, and survivability;

(viii) Rescue/crash response;

(ix) Maintenance;

(x) Airframe;

(xi) Crew qualifications;

(xii) Medical, including use and function of restraint systems;

(xiii) NAVAIDS and facilities; and

(xiv) Results of on-sight and off-sight testing.

(2) *Evaluative report.* The purpose of this report is to improve safety by preventing accidents/incidents. This report is used to assist agencies to build or enhance an effective aviation safety program. This report contains the conclusions, opinions, and recommendations of the investigator(s) and certain designated witness' statements. Except for the aforementioned witness statements, no factual information and/or material not available in the factual report should be referred to or relied upon in this report. Evaluative notes of the agency's investigator(s), to the extent they may be retained, should be attached to this report.

(i) The utility of the evaluative report depends in part on candid statements and observations by witnesses or those directly involved in the accident/incident. (See paragraph (d) of this section.) Therefore, the investigator-in-charge should inform witnesses that their statements are #intended to be used only for safety evaluation and improvement purposes.

(ii) If the investigator-in-charge, in consultation with agency counsel, has determined that a witness' statement may be privileged, it should be attached only to the evaluative report.

(c) Limited use and protection of the evaluative report. The evaluative report, attachments, and report endorsements are exempt from disclosure to the extent covered by 5 U.S.C. 552 (b)(5). Agency counsel can determine the extent of such coverage. The evaluative report should be used only for safety purposes.

(d) Preventing use of information contained in the evaluative report for other than its intended purposes encourages aircraft accident/incident witnesses, investigator(s), and endorsers of aircraft evaluative reports and attachments to provide complete, open, and forthright information, opinions, conclusions, and recommendations regarding the accident/incident investigated. If aircraft accident/incident investigator(s) and endorsers believed that their deliberations, opinions, and recommendations could be used for other than safety purposes, they might be reluctant to develop or include in their reports and endorsements information which would be vital for safety and for the prevention of future loss of life, bodily injury, and/or property damage.

(e) Investigators. Consistent with the policies and procedures contained in paragraphs (a) through (e) of this section, all investigators, including but not limited to investigators-in-charge, may testify as to the factual information they obtained during the course of the accident investigation, including factual evaluations embodied in the factual report.

Dated: September 9, 1992.

Richard G. Austin,

Administrator of General Services.

[FR Doc. 92-24729 Filed 10-22-92; 8:45 am

BILLING CODE 6820-24-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 1 and 73

[DA 92-1314]

Broadcast Services; Editorial Amendments to the Rules

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This Order amends 47 CFR parts 1 and 73 to correct certain errors and to reflect recent changes in the Commission's Rules in order to make these rules as accurate as possible.

EFFECTIVE DATE: October 23, 1992.

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

SUPPLEMENTARY INFORMATION:

Order

Adopted: September 25, 1992.
Released: September 28, 1992.

By the Chief, Mass Media Bureau;

1. On October 1, 1992, the Office of the Federal Register will issue the 1992 Code of Federal Regulations (CFR) for title 47. In order to make the new CFR as accurate as possible, we have reviewed the 1991 edition and identified outmoded and/or inconsistent information. Accordingly, this Order amends the Commission's Rules to reflect these editorial changes to 47 CFR parts 1 and 73. This Order makes no substantive changes that impose additional burdens or remove provisions relied upon by licensees or the public. For this reason, we believe that this revision will serve the public interest. This information is amended as part of the Agency's oversight function.

2. This amendment is implemented by authority delegated by the Commission to the Chief, Mass Media Bureau. Because this amendment only interprets and clarifies the existing language of parts 1, 73, prior notice of rule making is not required. 47 CFR 1.412(c). For this same reason, this amendment may become effective upon publication in the **Federal Register**. 47 CFR 1.427(b). Because a general notice of proposed rule making is not required, the Regulatory Flexibility Act does not apply.

3. Therefore, it is ordered, That pursuant to sections 4, 5, and 303, on the Communications Act of 1934, as amended, and §§ 0.61 and 0.283 of the Commission's Rules, parts 1 and 73 of the FCC Rules and Regulations are

amended as set forth below, effective upon publication in the **Federal Register**.

4. For further information on this Order, call Rita S. McDonald, Policy and Rules Division at (202) 632-5414.

Federal Communications Commission.

Roy J. Stewart,

Chief, Mass Media Bureau.

List of Subjects

47 CFR Part 1

Administrative practice and procedure, Reporting and recordkeeping requirements.

47 CFR Part 73

Radio broadcasting, Television broadcasting.

Amendatory Text

Parts 1 and 73 of chapter I of title 47 of the Code of Federal Regulations are amended as follows:

PART 1—PRACTICE AND PROCEDURE

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

Authority: Secs. 4, 303, 48 Stat. 1066, 1082, as amended, 47 U.S.C. 154 and 303.

§ 1.80 [Amended]

2. The parenthetical reference to § 1.15 in the last sentence of § 1.80(f)(2) is revised to § 1.5.

3. Section 1.2003 is amended by adding a new form to the list of forms in numerical order to read as follows:

§ 1.2003 Applications affected.

* * * * *

FCC 302-FM Applicaton for FM Broadcast Station License.

* * * * *

PART 73—RADIO BROADCAST SERVICES

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

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

§ 73.232 [Amended]

5. Section 73.232 is amended by changing the phrase "rebroadcast by one station or programming from another" in the third sentence, to read "rebroadcast by one station of programming from another."

6. Section 73.295 is amended by revising the first sentence in paragraph (a) to read as follows:

§ 73.295 FM subsidiary communications services.

(a) Subsidiary communication services are those transmitted on a subcarrier within the FM baseband signal, but do not include services which enhance the main program broadcast service, or exclusively related to station operations (see § 73.293). * * *

* * * * *

7. Section 73.310 is amended by revising the definition of *frequency swing* in paragraph (a)(2) to read as follows:

§ 73.310 FM technical definitions.

(a) * * *

(2) * * *

Frequency swing. The peak difference between the maximum and the minimum values of the instantaneous frequency of the carrier wave during modulation.

* * * * *

§ 73.313 [Amended]

8. Section 73.313 is amended by changing the word in paragraph (d) introductory text from "determing" to read "determining."

§ 73.319 [Amended]

9. Section 73.319 is amended by changing the word in paragraph (d)(1) from "airthmetic" to read "arithmetic."

§ 73.644 [Amended]

10. Section 73.644 is amended by changing the reference in paragraph (b)(1) from "§ 73.687(i)" to "§ 73.687(e)."

11. Section 73.1010 is amended by revising paragraph (a)(4) and by adding paragraph (a)(7) to read as follows:

§ 73.1010 Cross reference to rules in other parts.

* * * * *

(a) * * *

(4) Subpart G, "Schedule of Statutory Charges and Procedures for Payment". (§§ 1.1101 to 1.1117.)

* * * * *

(7) Subpart P, "Implementation of the Anti-Drug Abuse Act of 1988". (§§ 1.2001–1.2003.)

* * * * *

§ 73.1125 [Amended]

12. Section 73.1125 is amended by changing the reference in paragraph (a) from "§ 73.24(j)" to read "§ 73.24(i)."

13. Section 73.1225 is amended by changing the reference in paragraph (b) from "part 1" to read "part 0," and by revising paragraph (d)(3)(iii) to read as follows:

§ 73.1225 Station inspection by FCC.

* * * * *

(d) * * *

(3) * * *

(iii) Section 73.61, AM direction antenna field strength measurements.

§ 73.1620 [Amended]

14. Section 73.1620 is amended by removing the parenthetical reference to "(FCC Form 302)" in the first complete sentence in paragraph (g).

15. Section 73.3500 is amended by adding a new form to the list in numeric order of forms to read as follows:

§ 73.3500 Application and report forms.

* * * * *

Form No.	Title
*	*
302-FM	Application for FM Broadcast Station License.
*	*

[FR Doc. 92-25572 Filed 10-22-92; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Parts 64 and 68

[CC Docket No. 92-90; FCC 92-443]

Telephone Consumer Protection Act of 1991

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This Report and Order (R&O) amends parts 64 and 68 of the Commission's rules to establish procedures for avoiding unwanted telephone solicitations to residences, and to regulate the use of automatic telephone dialing systems (autodialers), prerecorded or artificial voice messages, and telephone facsimile machines. This action is pursuant to requirements of the Telephone Consumer Protection Act of 1991 (TCPA) which amends Title II of the Communications Act of 1934, as amended, by adding new section 227 and conforming section 2(b), and results from the Commission's analysis of comments to its Notice of Proposed Rulemaking published at 7 FCC Rcd 2736 (1992), (57 FR 18445, April 30, 1992). The TCPA, and corresponding rules of the Commission, are intended to protect the public from telemarketing calls which may pose a threat to health and safety or which otherwise may be considered by the called party to be undesirable, and to establish technical and procedural standards for the use of telephone facsimile machines.

EFFECTIVE DATE: December 20, 1992.

FOR FURTHER INFORMATION CONTACT: Suzanne Hutchings, Domestic Services Branch, Domestic Facilities Division, Common Carrier Bureau, (202) 634-1802.

SUPPLEMENTARY INFORMATION: This summarizes the Commission's R&O in the matter of Rules and Regulations Implementing the Telephone Consumer

Protection Act of 1991 (CC Docket 92-90, FCC 92-443 adopted September 17, 1992 and released October 14, 1992). The R&O and supporting file are available for inspection and copying during the weekday hours of 9 a.m. to 4:30 p.m. in the Commission's Dockets Branch, room 239, 1919 M Street NW., Washington, DC, or copies may be purchased from the Commission's duplicating contractor, Downtown Copy Center, Inc., 1990 M Street NW., suite 640, Washington, DC 20036, phone (202) 452-1422. The R&O will be published in the FCC Record.

Paperwork Reduction Act Statement

The following recordkeeping requirement contained in the final rules has been submitted to the Office of Management and Budget (OMB) for review and approval pursuant to requirements of the Paperwork Reduction Act of 1980, as amended:

Title: Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991.

OMB Number: None.

Action: Final rules; new collection.

Respondents: Businesses or others for profit, including small businesses. There is no reporting requirement; however, the R&O imposes a recordkeeping requirement on telephone solicitors to maintain lists of residential telephone subscribers who do not wish to be contacted by telephone.

Estimated Annual Burden: The annual burden to telephone solicitors are estimated to be 30,000 recordkeepers × 260 hours per recordkeeper = 7,800,000 recordkeeping hours. The public burden for the collection of information is estimated to average 260 hours per recordkeeper, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding burden estimates or any other aspect of the collection of information, including suggestions for reducing the burden, to the Federal Communications Commission, Paperwork Reduction Project, Records Management Division, room 416, Washington, DC 20554, and to the Office of Management and Budget, Paperwork Reduction Project, Washington, DC 20503.

Analysis of Proceeding

This summarizes the Commission's R&O in the matter of Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991, Public Law 102-243, Dec. 20, 1991 (TCPA), CC Docket 92-90, FCC 92-443, adopted September 17, 1992 and released October 16, 1992.

The TCPA adds section 227 and conforms section 2(b) to the Communications Act of 1934, as amended, to impose restrictions on the use of automatic telephone dialing systems ("autodialers"), artificial or prerecorded messages, and telephone facsimile machines. 47 U.S.C. 227 and 152(b). The TCPA also requires that the Commission consider several methods to accommodate telephone subscribers who do not wish to receive unsolicited telephonic advertisements. The statute mandates that the Commission prescribe regulations implementing its requirements within nine months after the date of enactment, December 20, 1991. Accordingly, the Commission, on April 10, 1992, adopted a Notice of Proposed Rulemaking (NPRM) (which included a copy of the TCPA) (7 FCC Rcd 2736 (1992), [57 FR 18445, April 30, 1992]) to which approximately 240 parties commented. Based on that record, the Commission has adopted this R&O.

The rules we have adopted: (1) Prohibit calls using automatic telephone dialing systems or artificial or prerecorded voice (in the absence of an emergency or the prior express consent of the called party) to emergency lines, health care facilities, radio common carriers or any number for which the called party is charged for the call; (2) prohibit calls using artificial or prerecorded voice calls to residences (absent an emergency or the prior express consent of the called party); (3) prohibit calls which transmit unsolicited advertisements to telephone facsimile machines; (4) require that telephone facsimile machines and autodialed artificial or prerecorded voice messages identify the sender of such transmissions; (5) require that artificial or prerecorded voice messages release the line of the called party within 5 seconds of notification that the called party has hung up; and (6) prohibit calls which simultaneously engage two or more lines of a multi-line business. Exemptions to the prohibition on prerecorded calls to residences apply if the call: (a) Is not made for a commercial purpose; (b) does not transmit an unsolicited advertisement; (c) is made by a calling party with whom the called party has an established business relationship; or (d) is made by a tax-exempt nonprofit organization. 47 CFR 64.1200 (a)(2) and (c). In addition, telephone solicitations may not be made before the hour of 8 a.m. or after the hour of 9 p.m (local time at the called party's location). The rules further require that telephone solicitors maintain company-specific lists of residential subscribers who request not to receive further solicitations (company-specific do-not-call lists), thereby affording consumers the choice of which solicitors, if any, they will hear from by telephone. 47 CFR 64.1200(e) (iii) and (vi). The Commission believes that maintenance of such company-specific do-not-call lists, which many telemarketers already maintain, is the most effective and least costly means of preventing unwanted solicitations. Pursuant to requirements of the TCPA, the rules adopted balance the objectives of protecting consumers from nuisance calls while permitting legitimate telemarketing practices.

Final Regulatory Flexibility Analysis

Pursuant to the Regulatory Flexibility Act of 1980, 5 U.S.C. 601, *et seq.*, the Commission's final analysis in this R&O is as follows.

I. Need and Purpose of This Action

This R&O amends part 64 of the Commission's rules by adding § 64.1200 to restrict the use of automatic telephone dialing systems and artificial or prerecorded voice messages for telemarketing purposes or for transmitting unsolicited telephone facsimile advertisements. The rules require that persons or entities making telephone solicitations establish procedures to protect residential subscribers from unwanted solicitations, and set forth exemptions to certain prohibitions under this part. The R&O also amends part 68 of the rules by revising § 68.318(c)(2) and adding § 68.318(c)(3) to require that automatic telephone dialing systems delivering a recorded message release the called party's line within five seconds of notification of hang up by the called party, and to require that telephone facsimile machines manufactured on and after December 21, 1992 must clearly identify the sender of a facsimile message. The amendments implement the Telephone Consumer Protection Act of 1991, which *inter alia*, adds section 227 to the Communications Act of 1934, as amended 47 U.S.C. 227. The rules are intended to impose reasonable restrictions on autodialed or prerecorded voice telephone calls consistent with considerations regarding public health and safety and commercial speech and trade, and to allow consumers to avoid unwanted telephone solicitations without unduly limiting legitimate telemarketing practices.

II. Summary of Issues Raised by the Public Comments in Response to the Initial Regulatory Flexibility Analysis

No comments were submitted in direct response to the Initial Regulatory Flexibility Analysis.

III. Significant Alternatives Considered

The NPRM in this proceeding requested comments on proposed regulations implementing the TCPA and comments on several proposals restricting telephone solicitations to residential telephone subscribers. The Commission has considered all comments and has adopted regulations to implement the prohibitions and technical requirements mandated by the TCPA as well as regulations which allow consumers to avoid unwanted telephone solicitations through placement on company-specific do-not-call lists. The Commission considers its R&O to be the most reasonable course of action under the mandate of section 227 of the Communications Act of 1934, as amended.

Ordering Clauses

Accordingly, *it is ordered*, That, pursuant to authority contained in sections 1, 4(i), 4(j), 201–205, 218, and 227 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 154(j), 201–205, 218 and 227, parts 64 and 68 of the Commission's Rules and Regulations Are Amended as set forth below, effective December 20, 1992.

It is further ordered, That, the Secretary shall cause a summary of this Report and Order to be published in the **Federal Register** which shall include a statement describing how members of the public may obtain the complete text of this Commission decision. The Secretary shall also provide a copy of this Report and Order to each state utility commission.

It is further ordered, That, this proceeding Is Terminated.

List of Subjects

47 CFR Part 64

Telephone, Reporting and recordkeeping requirements, Consumer protection.

47 CFR Part 68

Telephone, Communications equipment, Facsimile. Federal Communications Commission.

Donna R. Searcy,

Secretary.

Amended Rules

Parts 64 and 68 of the Commission's Rules and Regulations (chapter I of title 47 of the Code of Federal Regulations, parts 64 and 68) are amended as follows:

PART 64—MISCELLANEOUS RULES RELATING TO COMMON CARRIERS

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

Authority: Secs. 1, 4(i), 4(j), 201–5, 218, 225–7 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 154(j) 201–5, 218, 225–7.

2. New subpart L consisting of § 64.1200 is added to part 64 to read as follows:

Subpart L—Restrictions on Telephone Solicitation

§ 64.1200 Delivery restrictions.

(a) No person may:

(1) Initiate any telephone call (other than a call made for emergency purposes or made with the prior express consent of the called party) using an automatic telephone dialing system or an artificial or prerecorded voice,

(i) To any emergency telephone line, including any 911 line and any emergency line of a hospital, medical physician or service office, health care facility, poison control center, or fire protection or law enforcement agency;

(ii) To the telephone line of any guest room or patient room of a hospital, health care facility, elderly home, or similar establishment; or

(iii) To any telephone number assigned to a paging service, cellular telephone service, specialized mobile radio service, or other radio common carrier service, or any service for which the called party is charged for the call;

(2) Initiate any telephone call to any residential telephone line using an artificial or prerecorded voice to deliver a message without the prior express consent of the called party, unless the call is initiated for emergency purposes or is exempted by § 64.1200(c) of this section.

(3) Use a telephone facsimile machine, computer, or other device to send an unsolicited advertisement to a telephone facsimile machine.

(4) Use an automatic telephone dialing system in such a way that two or more telephone lines of a multi-line business are engaged simultaneously.

(b) For the purpose of § 64.1200(a) of this section, the term "emergency purposes" means calls made necessary in any situation affecting the health and safety of consumers.

(c) The term "telephone call" in § 64.1200(a)(2) of this section shall not include a call or message by, or on behalf of, a caller:

(1) That is not made for a commercial purpose,

(2) That is made for a commercial purpose but does not include the transmission of any unsolicited advertisement,

(3) To any person with whom the caller has an established business relationship at the time the call is made, or

(4) Which is a tax-exempt nonprofit organization.

(d) All artificial or prerecorded telephone messages delivered by an automatic telephone dialing system shall:

(1) At the beginning of the message, state clearly the identity of the business, individual, or other entity initiating the call, and

(2) During or after the message, state clearly the telephone number (other than that of the autodialer or prerecorded message player which placed the call) or address of such business, other entity, or individual.

(e) No person or entity shall initiate any telephone solicitation to a residential telephone subscriber:

(1) Before the hour of 8 a.m. or after 9 p.m. (local time at the called party's location), and

(2) Unless such person or entity has instituted procedures for maintaining a list of persons who do not wish to receive telephone solicitations made by or on behalf of that person or entity. The procedures instituted must meet the following minimum standards:

(i) Written policy. Persons or entities making telephone solicitations must have a written policy, available upon demand, for maintaining a do-not-call list.

(ii) Training of personnel engaged in telephone solicitation. Personnel engaged in any aspect of telephone solicitation must be informed and trained in the existence and use of the do-not-call list.

(iii) Recording, disclosure of do-not-call requests. If a person or entity making a telephone solicitation (or on whose behalf a solicitation is made) receives a request from a residential telephone subscriber not to receive calls from that person or entity, the person or entity must record the request and place the subscriber's name and telephone number on the do-not-call list at the time the request is made. If such requests are recorded or maintained by a party other than the person or entity on whose behalf the solicitation is made, the person or entity on whose behalf the solicitation is made will be liable for any failures to honor the do-not-call request. In order to protect the

consumer's privacy, persons or entities must obtain a consumer's consent to share or forward the consumer's request not to be called to a party other than the person or entity on whose behalf a solicitation is made or an affiliated entity.

(iv) Identification of telephone solicitor. A person or entity making a telephone solicitation must provide the called party with the name of the individual caller, the name of the person or entity on whose behalf the call is being made, and a telephone number or address at which the person or entity may be contacted. If a person or entity makes a solicitation using an artificial or prerecorded voice message transmitted by an autodialer, the person or entity must provide a telephone number other than that of the autodialer or prerecorded message player which placed the call.

(v) Affiliated persons or entities. In the absence of a specific request by the subscriber to the contrary, a residential subscriber's do-not-call request shall apply to the particular business entity making the call (or on whose behalf a call is made), and will not apply to affiliated entities unless the consumer reasonably would expect them to be included given the identification of the caller and the product being advertised.

(vi) Maintenance of do-not-call lists. A person or entity making telephone solicitations must maintain a do-not-call list for the purpose of any future telephone solicitations.

(f) As used in this section:

(1) The terms "automatic telephone dialing system" and "autodialer" mean equipment which has the capacity to store or produce telephone numbers to be called using a random or sequential number generator and to dial such numbers.

(2) The term "telephone facsimile machine" means equipment which has the capacity to transcribe text or images, or both, from paper into an electronic signal and to transmit that signal over a regular telephone line, or to transcribe text or images (or both) from an electronic signal received over a regular telephone line onto paper.

(3) The term "telephone solicitation" means the initiation of a telephone call or message for the purpose of encouraging the purchase or rental of, or investment in, property, goods, or services, which is transmitted to any person, but such term does not include a call or message:

(i) To any person with that person's prior express invitation or permission;

(ii) To any person with whom the caller has an established business relationship; or

(iii) By a tax-exempt nonprofit organization.

(4) The term "established business relationship" means a prior or existing relationship formed by a voluntary two-way communication between a person or entity and a residential subscriber with or without an exchange of consideration, on the basis of an inquiry, application, purchase or transaction by the residential subscriber regarding products or services offered by such person or entity, which relationship has not been previously terminated by either party.

(5) The term "unsolicited advertisement" means any material advertising the commercial availability or quality of any property, goods, or services which is transmitted to any person without that person's prior express invitation or permission.

PART 68—[AMENDED]

4. The authority citation for part 68 is revised to read as follows:

Authority: Secs. 1, 4, 5, 201–5, 208, 215, 218, 226, 227, 303, 313, 314, 403, 404, 410, 602 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154, 155, 201–5, 208, 215, 218, 226, 227, 303, 313, 314, 403, 404, 410, 602.

5. Section 68.318 is amended by revising paragraph (c)(2) and adding paragraph (c)(3) to read as follows:

§ 68.318 Additional limitations.

* * * * *

(c) * * *

(2) Line seizure by automatic telephone dialing systems. Automatic telephone dialing systems which deliver a recorded message to the called party must release the called party's telephone line within 5 seconds of the time notification is transmitted to the system that the called party has hung up, to allow the called party's line to be used to make or receive other calls.

(3) Telephone facsimile machines; identification of the sender of the message. It shall be unlawful for any person within the United States to use a computer or other electronic device to send any message via a telephone facsimile machine unless such message clearly contains, in a margin at the top or bottom of each transmitted page or on the first page of the transmission, the date and time it is sent and an identification of the business, other entity, or individual sending the message and the telephone number of the sending machine or of such business, other entity, or individual. Telephone facsimile machines manufactured on and after December 20, 1992 must clearly mark such identifying information on each transmitted message.

* * * * *

[FR Doc. 92–25686 Filed 10–22–92; 8:45 am]
BILLING CODE 6712-01-M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

49 CFR Part 71

[OST Docket No. 48215]

RIN 2105-AB90

Standard Time Zone Boundary in the State of North Dakota; Relocation of Time Zone Boundary

AGENCY: The Department of Transportation (DOT), Office of the Secretary (OST).

ACTION: Final rule.

SUMMARY: DOT is relocating the boundary between central and mountain time in the State of North Dakota by moving Oliver County from the mountain time zone to the central time zone. The change is made in response to a request of the Board of Commissioners of Oliver County, North Dakota, and is based on comments received at two public hearings and sent to the docket.

EFFECTIVE DATE: This final rule will be effective 2 a.m., Sunday, October 25, 1992. This effective date and time coincide with the change from daylight saving time to standard time.

FOR FURTHER INFORMATION CONTACT: Joanne Petrie, Office of the Assistant General Counsel for Regulation and Enforcement (C–50), U.S. Department of Transportation, room 10424, 400 Seventh Street, SW., Washington, DC 20590, (202) 366–9306.

SUPPLEMENTARY INFORMATION:

Background

Under the Standard Time Act of 1918, as amended by the Uniform Time Act of 1966 (15 U.S.C. 261), the Secretary of Transportation has authority to issue regulations modifying the boundaries between time zones in the United States in order to move an area from one time zone to another. The standard in the statute for such decisions is "regard for the convenience of commerce and the existing junction points and division points of common carriers engaged in interstate or foreign commerce."

The Petition for Rulemaking

In September 1991, the Board of Commissioners of Oliver County, North Dakota, petitioned the Secretary of

Transportation to move Oliver County from the mountain time zone to the central time zone. The resolution stated that the requested change, if made, would serve the "convenience of commerce." In its submission, the county representative stated that the city of Center is the only incorporated city in Oliver County. Virtually all the supplies for businesses in the city of Center and Oliver County are shipped from the Bismarck-Mandan area. The Bismarck-Mandan area, located thirty-five miles from the city of Center, operates on central time. It stated that virtually all television and radio broadcasts come from Bismarck, the metropolitan trade center for the area. Also, the *Bismarck Tribune* is the daily newspaper that serves the county.

According to the submission, Oliver County has no regular passenger travel services. Residents normally must travel to Bismarck for bus, rail, or passenger airline services (Bismarck International Airport). Also, residents of the area regularly travel to Bismarck-Mandan for other services such as health care and recreational activities. As evidence of this fact, the highway linking the county to the Bismarck-Mandan location was recently upgraded.

In terms of employment and commuting patterns, the submission stated that the majority of residents are employed in the coal energy industry. The Commissioners noted that there is one major coal mine, BNI Coal, and one power plant facility, Minnkota Power, within the county and that the majority of residents work at these facilities. Both BNI and Minnkota have their headquarters located in the central time zone. In addition, a few of the residents of Oliver County commute to the Bismarck-Mandan area for employment.

The submission stated that although the coal industry is the prime basis of the area economy, there is also a considerable agricultural industry. Both the agricultural and coal industry rely heavily on supplies from the Bismarck Mandan market area.

The County Commission put the question of whether to change the time zone on the ballot in its June 12, 1990, primary election. The results of that nonbinding referendum indicated that 675 people favored changing to central time and 295 opposed the change.

Public Comments

The Department held two hearings in Center, N.D. on August 4, 1992. A total of approximately sixty people attended the hearings. A show of hands at the close of the first hearing indicated unanimous approval among the 19 people attending. The show of hands at the close of the second hearing indicated that 26 people were in favor of the change and 15 people were opposed. In the notice of proposed rulemaking and at the hearings, the Department invited written comments to be submitted to the docket. Thirteen comments were received, ten opposing the proposal and three supporting it.

Public Hearings

Among those who attended the public hearings to consider the proposal, fifteen spoke in support of the change, and nine took a position against it. Those who endorsed the proposal offered a variety of reasons for their support. An official of BNI coal, which employs a large number of Oliver County residents, remarked that BNI's commerce was oriented toward Bismarck, the location of its corporate headquarters. He noted that since the mine opened in 1969, it has been operating on central time. BNI's primary customer is the power plant, which also operates on central time. Another BNI employee stated that it was confusing to be on different time standards at work and at home. An employee of the Minnkota power plant said that the plant was on central time and that it was convenient to be on central time for activities in Bismarck. He said that Williston and northwest portions of the state further west than Oliver County are already on central time. A retired power plant employee noted a great deal of confusion occurred when his children were in school, which was on mountain time, and he worked on central time.

An employee of the Center School District indicated a preference for central time. She observed that children who have medical appointments in Bismarck must leave an hour earlier and consequently miss more time in the classroom. A former school bus driver said that it was safer for children to be picked up in the dark in the morning than to be dropped off in the dark in the afternoon. A representative of the school board supported the change to central time for the sake of uniformity. Current school hours are on mountain time while most people operate on central time at work. He said that although school schedules are coordinated with Mercer County, which is on mountain time, he does not expect the change to central time to cause a problem.

An employee of a local clinic noted that setting up appointments for patients in Center and in Bismarck is very confusing. Patients often do not know if the appointment is on central or mountain time, and as a result people may arrive early or late, which causes great inconvenience for both patients and medical staff.

One woman commented that people can adjust to getting up in the dark and that the current situation of having two time standards is too confusing and makes it inconvenient for going to Bismarck. Another person said that most people do their shopping in Bismarck for both personal items and farm equipment. Numerous people at both hearings said that being on central time would make it far easier to attend to personal and business matters, which often require travelling to Bismarck.

Others in attendance at the public hearings stated their reasons for opposing the change. One man commented that changing to central time and then going on daylight saving time would mean a two hour change, which he opposed. Several people in attendance said that changing to central time might send more business out of the small towns to Bismarck. One man complained that too many people make their money in Oliver County, but spend it in Bismarck. One county resident said that he found it convenient to work on a job that observes central time and then be able to come into town and find that the post office and the stores were still open because they operate on mountain time. One resident, who works in Morton County (which is on mountain time), quipped that the time change would mean that he would not arrive home until 8:30 p.m., and that his wife would not cook dinner at that hour. Several people mentioned that those living in the western part of Oliver County have most of their business and other dealings with counties to the west, also on mountain time, rather than with Bismarck.

Written Comments

Thirteen comments were submitted to the docket for consideration; 10 were opposed to the change to central time, while three were in favor of it. One person noted that a change to central time would make it inconvenient for farmers in the western part of the county because they are accustomed to obtaining machine parts at the end of the work day. In addition, if stores are on central time, they will be closing an hour earlier. One person wrote that the change would require children living in Oliver County and attending schools in other communities to adjust to a time change. He said it would also affect the scheduling of school and community events. Several people said the change would result in a checkerboard of time zones. One person, who objected to the change, noted that areas to the north,

south and west of Oliver County are all on mountain time. Another person objected that the people of Center should not be able to control the time standard for the whole county. He said that to move the boundary away from the river to private property would make it very difficult to know what time zone a person is in when travelling across the county. Another person objected to the change unless the entire state switched to central time. She said the change could mean that children would be starting school at 9:30 central time, while most of their parents begin work at 8 a.m.

The Decision

After carefully weighing all the comments received at the hearings and in the docket, we have decided to place all of Oliver County on central time, as proposed. This decision was, in many ways, a difficult one. As noted above, there is a variety of opinion in the community and strong feelings on both sides. We were moved by the comments of farmers and those who live in the western part of the county who sincerely believe that the proposed change would make their lives more difficult. We also understand the feeling of many residents who are satisfied with the current situation and who, to date, have not experienced any problems with their proximity to the time zone boundary.

Despite all these valid concerns, the Department is required to act pursuant to the statutory criteria set forth in the Uniform Time Act. The Act states that "[t]he limits of each zone shall be defined by an order of the Secretary of Transportation, having regard for the convenience of commerce and the existing junction points and division points of common carriers engaged in interstate or foreign commerce * * *". The Department has traditionally defined commerce very broadly to include all the impacts on the community from a change in the time zone. For example, the Department considers:

—where businesses in the community get their supplies and where they ship their goods and products;
—where their television and radio broadcasts originate;
—where newspapers are published;
—where the community gets its bus, and passenger rail service;
—where the nearest local and major airports are;
—what percentage of residents work outside the community and where the residents work;
—what the major elements of the community's economy are; and
—if residents leave the community for schooling, recreation, health care or religious worship, what standard of time is observed in the places where they go.

In addition, the Department considers any other impacts the proposed time zone change might have on the community and whether the proposed change has community support.

We find that the proposed change requested by the County Commissioners suits "the convenience of commerce." To the extent that the area is not self-sufficient, it looks to the east and has many ties to the central time zone.

We believe that this change will provide many benefits for the community. It should simplify commerce by allowing the suppliers and recipients of most goods and services to operate on the same schedule. The change will also mean that employees living in Oliver County and commuting to Bismarck-Mandan or working in the coal or electric power industry will be on the same time in their home and work environments. The change will also eliminate confusion that arises for people residing in Oliver County and scheduling medical and dental appointments in Bismarck. The change will facilitate shopping for people who travel to Bismarck for goods and services which are unavailable locally. It hopefully will improve the quality of life by reducing confusion and allowing easier access to the nearest commercial, medical and cultural center.

Living near a time zone boundary always involves some inconvenience, and we recognize that some people will be inconvenienced by this decision. We believe, however, that there are many things that they can do to mitigate the inconvenience and that, on balance, the convenience of commerce and the majority of Oliver County citizens will be better served if the county observes central time.

Effective Date

This final rule is effective at 2 a.m. Sunday, October 25, 1992. We find good cause to make the rule effective on less than 30 days notice. Making the change effective at the same time daylight saving time ends will minimize confusion and reduce disruption to the lives of citizens in the affected area, as well as neighboring communities.

Regulatory Analyses and Notices

Executive Order 12291 and DOT Regulatory Policies and Procedures

This final rule has been reviewed under Executive Order 12291, and it has been determined that this is not a major rule. Furthermore, it is not a significant rulemaking under DOT Regulatory Policies and Procedures, 44 FR 111034, because of its highly localized impact. The economic impact would be so minimal that it does not warrant preparation of a regulatory evaluation.

Executive Order 12612

This final rule has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that it does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment. Although time observance is of great local interest, Congress has delegated the authority to the Secretary of Transportation to change time zone boundaries and to oversee the observance of uniform time.

Executive Order 12630

This final rule has been analyzed in accordance with the principles and criteria contained in Executive Order 12630, and it has been determined that the proposed rulemaking does not pose the risk of a taking of constitutionally protected private property.

Regulatory Flexibility Act

I certify under the criteria of the Regulatory Flexibility Act that this final rule will not have a significant economic impact on a substantial number of small entities. The rule will only affect one county and will not result in a large economic impact.

Paperwork Reduction Act

There are no reporting or recordkeeping requirements associated with this rulemaking.

National Environmental Policy Act

I have determined that this rulemaking is not a major Federal action significantly affecting the quality of the human environment and that an environmental impact statement is not required.

List of Subjects in 49 CFR Part 71

Time.

Accordingly, the Department amends 49 CFR part 71, *Standard Time Zone Boundaries*, to read as follows:

1. The authority citation for part 71 continues to read:

Authority: Secs. 1–4, 40 stat. 450, as amended; sec. 1, 41 stat. 1446, as amended; secs. 2–7, 80 stat. 107, as amended; 100 stat. 764; Act of Mar. 19, 1918, as amended by the Uniform Time Act of 1966 and Public Law 97–449, 15 U.S.C. 260–267; Public Law 99–359; 49 CFR 1.59(a).

2. Paragraph (a) of § 71.7, *Boundary line between central and mountain zones*, is revised to read:

§ 71.7 Boundary line between central and mountain zones.

(a) *Montana-North Dakota.* Beginning at the junction of the Montana-North Dakota boundary with the boundary of the United States and Canada southerly along the Montana-North Dakota boundary to the Missouri River; thence southerly and easterly along the middle of that river to the midpoint of the confluence of the Missouri and Yellowstone Rivers; thence southerly and easterly along the middle of the Yellowstone River to the north boundary of T. 150 N., R. 104 W.; thence east to the northwest corner of T. 150 N., R. 102 W.; thence south to the southwest corner of T. 149 N., R. 102 W.; thence east to the northwest corner of T. 148 N., R. 102 W.; thence south to the northwest corner of 147 N., R. 102 W.; thence east to the southwest corner of T. 148 N., R. 101 W., thence south to the middle of the Little Missouri; thence easterly and northerly along the middle of that river to the midpoint of its confluence with the Missouri River; thence southerly and easterly along the middle of the Missouri River to the midpoint of its confluence with the northern land boundary of Oliver County; thence west along the northern county line to the northwest boundary; thence south along the western county line to the southwest boundary; thence east along the southern county line to the northwest corner of T. 140 N., R. 83 W.; thence south to the southwest corner of T. 140 N., R. 82 W.; thence east to the southeast corner of T. 140 N., R. 83 W.; thence south to the middle of the Heart River; thence easterly and northerly along the middle of that river to the southern boundary of T. 139 N., R. 82 W.; thence east to the middle of the Heart River; thence southerly and easterly along the middle of that river to the midpoint of the confluence of the Heart and Missouri Rivers; thence southerly and easterly along the middle of the Missouri River to the northern boundary of T. 130 N., R. 80 W.; thence west to the northwest corner of T. 130 N., R. 80 W.; thence south to the North Dakota-South Dakota boundary; thence easterly along that boundary to the middle of the Missouri River.

* * * * *

Issued on October 15, 1992, in Washington, DC.

Andrew H. Card, Jr.,

Secretary.

[FR Doc. 92-25680 Filed 10-22-92; 8:45 am]

BILLING CODE 4910-62-M

Proposed Rules

Federal Register
Vol. 57, No. 206
Friday, October 23, 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

Agricultural Marketing Service

7 CFR Part 907

[Docket No. FV-92-101PR]

Navel Oranges Grown in Arizona and Designated Part of California; Proposed Weekly Volume Regulations

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule invites comments on the quantities of fresh California-Arizona naval oranges that may be shipped weekly to domestic markets for the ten-week period from the week ending November 5 through the week ending January 7, 1993. Comments on the weekly levels of volume regulation must be received by the Department of Agriculture (Department) by 12:00 Noon Eastern Standard Time and by the Naval Orange Administrative Committee (Committee) by 12:00 Noon Pacific Standard Time on the Monday prior to the Committee meeting associated with the week of regulation being addressed in the comment. Consistent with program objectives, volume regulations for these weeks may be needed to establish and maintain orderly marketing conditions for fresh California-Arizona navel oranges. This proposal is based on a marketing policy which was adopted by the Committee on July 28, 1992. The Committee locally administers the marketing order covering navel oranges grown in California and Arizona.

DATES: Comments on the weekly levels of volume regulation must be received by the Department of Agriculture (Department) by 12:00 Noon Eastern Standard Time and by the Navel Orange Administrative Committee (Committee) by 12:00 Noon Pacific Standard Time on the Monday prior to the Committee meeting associated with the week of regulation being addressed in the comment.

Comments on the volume regulation proposed for the week ending November 5 must be received by the Department and the Committee by October 26; for the week ending November 12 by November 2; for the week ending November 19 by November 9; for the week ending November 26 by November 16; for the week ending December 3 by November 23; for the week ending December 10 by November 30; for the week ending December 17 by December 7; for the week ending December 24 by December 14; for the week ending December 31 by December 21; and for the week ending January 7, 1993 by December 28.

ADDRESSES: Comments must be sent in triplicate to the Docket Clerk, room 2525-S, F&V, AMS, USDA, P.O. Box 96456, Washington, DC 20090-6456, or by faxogram at (202) 720-5698; and to the Navel Orange Administrative Committee, 25129 The Old Road, suite 300, Newhall, California 91381, or by faxogram at (805) 255-9506. Such comments should reference the docket number, date, and page number of this issue of the **Federal Register**, and the dates of the regulatory week or weeks being addressed. For ease of review, persons submitting comments in excess of five pages may wish to include a one page summary. Such comments will be made available for public inspection in the Office of the Docket Clerk and the Committee office during regular business hours.

FOR FURTHER INFORMATION CONTACT: Christian D. Nissen, Marketing Order Administration Branch, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, room 2522-S, P.O. Box 96456, Washington, DC 20090-6456; telephone: (202) 720-5127; or Robert Curry, California Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, 2202 Monterey Street, suite 102B, Fresno, California, 93721; telephone: (209) 487-5901.

SUPPLEMENTARY INFORMATION:

This proposed rule is issued under Marketing Order No. 907 (7 CFR part 907), as amended, regulating the handling of navel oranges grown in Arizona and a designated part of California, hereinafter referred to as the "order." The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended, (7 U.S.C. 601-674), hereinafter referred to as the "Act."

This proposed rule has been reviewed by the Department of Agriculture 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 proposed rule has been reviewed under Executive Order 12778, Civil Justice Reform. This action is not intended to have retroactive effect. This proposed rule will not preempt any state or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with the Secretary a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. A handler is afforded the opportunity for a hearing on the petition. After the hearing the Secretary would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his principal place of business, has jurisdiction in equity to review the Secretary's ruling on the petition, provided a bill in equity is filed not later than 20 days after the date of the entry of the ruling.

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

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 130 handlers of navel oranges who are subject to regulation under the marketing order

and approximately 4,000 producers in the regulated area. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts of less than $500,000, and small agricultural service firms are defined as those whose annual receipts are less than $3,500,000. The majority of producers and handlers of California-Arizona navel oranges may be classified as small entities.

The Administrator of the AMS has determined that this proposed rule would not have a significant economic impact on a substantial number of small entities.

The declaration of policy in the Act includes provisions concerning establishing and maintaining such orderly marketing conditions as will protect producer prices and as will provide, in the interest of producers and consumers, an orderly flow of the supply of a commodity throughout the normal marketing season to avoid unreasonable fluctuations in supplies and prices. Limiting the quantity of California-Arizona navel oranges that each handlers may handle on a weekly basis may contribute to the Act's objectives of orderly marketing and improving producers' returns.

The navel orange, like many citrus varieties, is unique in that mature oranges can be stored on the tree, to be marketed at a later time. Usually a high proportion of the crop is mature early in the season and could be marketed; but markets may be insufficient to absorb that quantity of fruit in a short period of time at satisfactory price levels. The on-tree storage characteristic of the navel orange permits the effective use of the flow-to-market (volume regulation) provisions of the order. Thus, volume regulations can be a valuable tool in achieving the goal of market stabilization for navel oranges.

A major reason for the use of volume regulations under the navel orange marketing order is to establish and maintain orderly marketing conditions for navel oranges and thereby benefit producers through higher returns. Such regulations can at the same time benefit producers and consumers by maintaining an orderly flow of navel oranges to the marketplace during the season. Thus, the Committee may recommend to the Secretary the utilization of weekly volume regulations under the order to effectuate the purposes of the Act.

The navel orange marketing order contains a variety of provisions designed to provide handlers with marketing flexibility within an established volume regulation week. When volume regulation is established by the Secretary for a given week, the Committee calculates the quantity of oranges (allotment) which may be handled by each handler. The provisions of the order allow handlers to ship navel oranges in excess of their allotments, within specified limits, in response to marketing opportunities. The order includes provisions for:

(1) Shipment of oranges in excess of a handler's allotment (overshipments); (2) shipment of oranges in quantities less than a handler's allotment (undershipments); and (3) allotment loans. Handlers who want to ship more than their allotment are permitted to overship that amount by one car (one car equals 1,000 cartons at 37.5 pounds net weight each) or by 20 percent of their allotment level, whichever is greater. A handler may overship in a given week, but the overshipment must be offset against the following week's allotment. Handlers may also ship less than their allotment during a given week which would give them the opportunity to ship more than their allotment during the following week. Finally, handlers may borrow allotment from other handlers who choose to ship less than their allotment or who cannot fully utilize their allotment.

In addition, the order includes provisions that exempt the handling of certain navel oranges from volume regulation. Oranges which are used for the following purposes are exempt from volume regulation: (1) Charitable institutions or relief organizations for distribution by such agencies; (2) commercial processors for processing into products, including juice; (3) export markets; and (4) parcel post and express shipments. The Committee may also recommend for approval by the Secretary the exemption of minimum quantities of oranges from order provisions.

Pursuant to section 907.50 of the marketing order, the Committee is required to submit a marketing policy to the Secretary prior to recommending volume regulations for the ensuing season. The order authorizes volume and size regulations applicable to fresh shipments of California-Arizona navel oranges to markets in the continental United States, Alaska, and Canada. The marketing order does not authorize regulation of export shipments of navel oranges or navel oranges utilized in the production of processed orange products.

The Committee adopted its marketing policy for the 1992–93 season at its July 28, 1992, meeting in Newhall, California. The Committee presented its policy at district meetings for further discussion and review as follows: (1) Districts 1 and 4 on September 22, 1992; and (2) District 2 and 3 on September 29, 1992.

The Committee estimates the 1992–93 navel orange crop will total 77,900 cars. This compares to last year's total production of 72,558 cars. The 77,900 car estimate is a revision of the Committee's initial estimate of 75,550 cars, and was adopted by the Committee at its September 22 meeting. The National Agricultural Statistics Service's forecast of the 1992–93 California-Arizona navel orange crop was issued on September 10 and is 76,000 cars.

The Committee estimates District 1, Central California, 1992–93 production at 70,000 cars compared to 61,683 cars produced in 1991–92. In District 2, Southern California, the crop is expected to be 6,500 cars compared to 9,494 cars produced last year. In District 3, the Arizona-California Desert Valley, the Committee estimates a production of 1,100 cars compared to 1,271 cars produced last year. In District 4, Northern California, the crop is expected to be 300 cars compared to 110 cars produced last year. The Committee's production estimates are based primarily on historical data. The Committee's production estimates are revisions of the Committee's initial estimates of 65,700 cars for District 1, 8,400 cars for District 2, 1,150 cars for District 3, and 300 cars for District 4. These revised estimates were adopted by the Committee at its meeting on September 22. These estimates are expected to be modified as the season progresses.

The three basic outlets for California-Arizona navel oranges are the domestic fresh, export, and processing markets. The domestic (regulated) fresh market is a preferred market for California-Arizona navel oranges while the export market continues to grow. Japan and Hong Kong continue to be the leading export markets for navel oranges. Navel oranges which are diverted to processing are generally those oranges which do not meet quality requirements or are too small to market economically as fresh fruit.

In terms of total crop utilization, the Committee estimates that approximately 50,000 cars of the 1992–93 crop (64 percent) will be utilized in fresh domestic markets compared with 44,846 cars (62 percent) in 1991–92; fresh exports are projected at 10,500 cars (14 percent) of the total 1992–93 crop compared to 8,962 cars (12 percent) in 1991–92; and 17,400 cars (22 percent) of the 1992–93 crop will be utilized in by-product channels and other forms of processing compared with 18,750 cars

(26 percent) in 1991–92. The Committee's crop utilization estimates are revisions of its initial estimates of 49,000 cars (65 percent) utilized in fresh domestic markets; fresh exports at 10,000 cars (13 percent), and 16,550 cars (22 percent) utilized in byproduct channels and other forms of processing. The Committee's 1992–93 crop utilization estimates, like its production estimates, are also expected to be revised during the season.

The 1992–93 season average on-tree price for California-Arizona navel oranges is not expected to exceed the season's average fresh parity equivalent price. Domestic fresh utilization about equal to the Committee's mid-point estimate of 50,000 cars is expected to result in a season average fresh on-tree price of $3.84 per carton, about 49 percent of the estimated fresh on-tree parity equivalent price of $7.83 per carton. In contrast, the preliminary estimate of the 1991–92 season average fresh on-tree price is $5.19 per carton, or 70 percent of the preliminary season average on-tree parity equivalent price of $7.43 per carton.

The marketing policy includes a proposed industry shipping schedule showing possible levels of volume regulation for each week of the 1992–93 season. A revised shipping schedule was adopted by the Committee at its meeting on September 22. The recommended shipping schedule is based on the revised crop estimate and covers the entire season. The proposed shipping schedule is as follows:

[Cartons in thousands]

Week ending	District 1		District 2		District 3		District 4		Total cartons
	Cartons	Percent	Cartons	Percent	Cartons	Percent	Cartons	Percent	
(a) 10-15-92	50	100.0							50
(b) 10-22-92	100	100.0							100
(c) 10-29-92	550	100.0							550
(d) 11-05-92	1,100	100.0							1,100
(e) 11-12-92	1,152	96.0			48	4.0			1,200
(f) 11-19-92	1,229	94.5			71	5.5			1,300
(g) 11-26-92	1,325	94.6			71	5.1	4	0.3	1,400
(h) 12-03-92	1,504	94.0	10	0.6	72	4.5	14	0.9	1,600
(i) 12-10-92	1,647	91.5	29	1.6	104	5.8	20	1.1	1,800
(j) 12-17-92	1,600	88.9	61	3.4	105	5.8	34	1.9	1,800
(k) 12-24-92	866	86.6	57	5.7	48	4.8	29	2.9	1,000
(l) 12-31-92	781	86.8	67	7.4	38	4.2	14	1.6	900
(m) 01-07-93	1,366	85.4	162	10.1	43	2.7	29	1.8	1,600
(n) 01-14-93	1,467	86.3	177	10.4	37	2.2	19	1.1	1,700
(o) 01-21-93	1,467	86.3	177	10.4	37	2.2	19	1.1	1,700
(p) 01-28-93	1,581	87.8	185	10.3	20	1.1	14	0.8	1,800
(q) 02-04-93	1,600	88.9	191	10.6	9	0.5			1,800
(r) 02-11-93	1,609	89.4	191	10.6					1,800
(s) 02-18-93	1,609	89.4	191	10.6					1,800
(t) 02-25-93	1,609	89.4	191	10.6					1,800
(u) 03-04-93	1,695	89.2	205	10.8					1,900
(v) 03-11-93	1,695	89.2	205	10.8					1,900
(w) 03-18-93	1,695	89.2	205	10.8					1,900
(x) 03-25-93	1,695	89.2	205	10.8					1,900
(y) 04-01-93	1,695	89.2	205	10.8					1,900
(z) 04-08-93	1,695	89.2	205	10.8					1,900
(aa) 04-15-93	1,695	89.2	205	10.8					1,900
(bb) 04-22-93	1,695	89.2	205	10.8					1,900
(cc) 04-29-93	1,701	89.5	199	10.5					1,900
(dd) 05-06-93	1,429	89.3	171	10.7					1,600
(ee) 05-13-93	1,253	89.5	147	10.5					1,400
(ff) 05-20-93	1,072	89.3	128	10.7					1,200
(gg) 05-27-93	805	89.4	95	10.6					900
(hh) 06-03-93	538	89.7	62	10.3					600
(ii) 06-10-93	357	89.3	43	10.7					400

In developing the proposed shipping schedule, the Committee considered equity of marketing opportunity and established an equity factor pursuant to section 907.51(b). The Committee compiles production estimates in cars for each district. These production estimates are based on the entire anticipated tree crop in each district. The Committee combines these production estimates to obtain the total production for all four districts. The Committee then estimates the number of cars that could be marketed in fresh domestic channels. From the relationship between these two totals an equity factor is derived and then applied to each district's estimated production in order to determine the estimated amount of each district's production that could be moved into fresh domestic markets under regulation. Therefore, all districts, no matter how much handlers ship weekly to fresh domestic markets, should be provided the opportunity to ship, under volume regulation, the same proportionate amount to fresh domestic markets during the season. The equity factor for this season is 68 percent and is the same for all districts.

The Committee also calculates the percentage allocation, pursuant to section 907.110(d) of the regulations, for each district for each week which is used to determine each district's proportionate share of volume regulations issued for a particular week. Each district's volume limitation for a particular week is then equitably apportioned among all handlers in each district. Thus, each handler's individual allotment is ultimately based on the entire quantity of navel oranges available for all uses, including export.

Based on the Committee's deliberations and the marketing policy, it is evident that the Committee may recommend the implementation of

volume regulation for certain weeks during the 1992–93 season. Because the Department has determined that volume regulation may be recommended and adopted, it is issuing this proposed rule covering the ten-week period from the week ending on November 5, 1992, through the week ending on January 7, 1993. Should the Committee recommend, and the Department adopt, regulation for any or all weeks during the ten-week period, the Department would issue final rules establishing such regulations. Similar proposed rules may be issued and subsequently finalized throughout the season.

The Department invites comments on the proposed weekly levels of volume regulation for the week ending November 5 through the week ending January 7, 1993. The Committee meets on a weekly basis to consider current and prospective marketing conditions and interested persons may orally present their position at such meetings. Interested persons are also invited to submit written comments to the Committee and the Department regarding the proposed levels of regulation for any or all weeks of the ten-week period specified in this rule. Interested persons who wish to comment in writing must submit copies to both the Department and the Committee. For ease of review, persons submitting comments in excess of five pages may wish to include a one page summary.

Comments proposing alternative levels of shipments, including no regulation, during this ten-week period should provide as much information as possible in support of the suggested alternatives. Interested persons are also invited to comment on the possible regulatory and informational impact of the proposed volume regulations on small businesses.

The Committee will consider comments received in response to this proposed rule when deliberating on its recommendations for volume regulation. The Department will also consider comments received in its evaluation of Committee recommendations for volume regulation. If warranted, the Department will issue volume regulations on a weekly basis.

Comments on the weekly levels of volume regulation must be received by the Department by 12:00 Noon Eastern Standard Time and by the Committee by 12:00 Noon Pacific Standard Time the Monday prior to the Committee meeting associated with the week of regulation being addressed in the comment. Following is a list of the Committee's meeting dates, times, and locations, the regulatory week to be addressed at each meeting, and the proposed level of volume regulation for each regulatory week.

Committee Meetings and Dates

1. Committee Meeting Date: October 27, 1992
Time: 9 a.m.
Location: 25129 The Old Road, Suite 300, Newhall, California 91381
Regulatory Week to be Addressed: October 30–November 5, 1992
Proposed Level:

[Cartons in thousands]

District 1		District 2		District 3		District 4		Total cartons
Cartons	Percent	Cartons	Percent	Cartons	Percent	Cartons	Percent	
1,100	100.0							1,100

2. Committee Meeting Date: November 3, 1992
Time: 9 a.m.
Location: 25129 The Old Road, Suite 300, Newhall, California 91381
Regulatory Week to be Addressed: November 6–November 12, 1992
Proposed Level:

[Cartons in thousands]

District 1		District 2		District 3		District 4		Total cartons
Cartons	Percent	Cartons	Percent	Cartons	Percent	Cartons	Percent	
1,152	96.0			48	4.0			1,200

3. Committee Meeting Date: November 10, 1992
Time: 9 a.m.
Location: 25129 The Old Road, Suite 300, Newhall, California 91381
Regulatory Week to be Addressed: November 13–November 19, 1992
Proposed Level:

[Cartons in thousands]

District 1		District 2		District 3		District 4		Total cartons
Cartons	Percent	Cartons	Percent	Cartons	Percent	Cartons	Percent	
1,229	94.5			71	5.5			1,300

4. Committee Meeting Date: November 17, 1992
Time: 9 a.m.
Location: 25129 The Old Road, Suite 300, Newhall, California 91381
Regulatory Week to be Addressed: November 20–November 26, 1992
Proposed Level:

[Cartons in thousands]

District 1		District 2		District 3		District 4		Total cartons
Cartons	Percent	Cartons	Percent	Cartons	Percent	Cartons	Percent	
1,325	94.6	.....	.....	71	5.1	4	0.3	1,400

5. Committee Meeting Date: November 24, 1992
Time: 9 a.m.
Location: 25129 The Old Road, Suite 300, Newhall, California 91381
Regulatory Week to be Addressed: November 27–December 3, 1992
Proposed Level:

[Cartons in thousands]

District 1		District 2		District 3		District 4		Total cartons
Cartons	Percent	Cartons	Percent	Cartons	Percent	Cartons	Percent	
1,504	94.0	10	0.6	72	4.5	14	0.9	1,600

6. Committee Meeting Date: December 1, 1992
Time: 9 a.m.
Location: 25129 The Old Road, Suite 300, Newhall, California 91381
Regulatory Week to be Addressed: December 4–December 10, 1992
Proposed Level:

[Cartons in thousands]

District 1		District 2		District 3		District 4		Total cartons
Cartons	Percent	Cartons	Percent	Cartons	Percent	Cartons	Percent	
1,647	91.5	29	1.6	104	5.8	20	1.1	1,800

7. Committee Meeting Date: December 8, 1992
Time: 9 a.m.
Location: 25129 The Old Road, Suite 300, Newhall, California 91381
Regulatory Week to be Addressed: December 11–December 17, 1992
Proposed Level:

[Cartons in thousands]

District 1		District 2		District 3		District 4		Total cartons
Cartons	Percent	Cartons	Percent	Cartons	Percent	Cartons	Percent	
1,600	88.9	61	3.4	105	5.8	34	1.9	1,800

8. Committee Meeting Date: December 15, 1992
Time: 9 a.m.
Location: 25129 The Old Road, Suite 300, Newhall, California 91381
Regulatory Week to be Addressed: December 18–December 24, 1992
Proposed Level:

[Cartons in thousands]

District 1		District 2		District 3		District 4		Total cartons
Cartons	Percent	Cartons	Percent	Cartons	Percent	Cartons	Percent	
866	86.6	57	5.7	48	4.8	29	2.9	1,000

9. Committee Meeting Date: December 22, 1992
Time: 9 a.m.
Location: 25129 The Old Road, Suite 300, Newhall, California 91381
Regulatory Week to be Addressed: December 25–December 31, 1992
Proposed Level:

[Cartons in thousands]

District 1		District 2		District 3		District 4		Total cartons
Cartons	Percent	Cartons	Percent	Cartons	Percent	Cartons	Percent	
781	86.8	67	7.4	38	4.2	14	1.6	900

10. Committee Meeting Date: December 29, 1992
Time: 9 a.m.
Location: 25129 The Old Road, Suite 300, Newhall, California 91381
Regulatory Week to be Addressed: January 1–January 7, 1993
Proposed Level:

[Cartons in thousands]

District 1		District 2		District 3		District 4		Total cartons
Cartons	Percent	Cartons	Percent	Cartons	Percent	Cartons	Percent	
1,366	85.4	162	10.1	43	2.7	29	1.8	1,600

Comments received will be analyzed and considered as part of the rulemaking process.

List of Subjects in 7 CFR Part 907

Marketing agreements, Oranges, Reporting and record keeping requirements.

For the reasons set forth in the preamble, 7 CFR part 907 is proposed to be amended as follows:

PART 907—NAVEL ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

1. The authority citation for 7 CFR part 907 continues to read as follows:

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

2. A new § 907.1034 is added to read as follows:

§ 907.1034 Navel orange regulation 734.

The quantity of navel oranges grown in California and Arizona which may be handled during the period from October 30 through November 5, 1992, is as follows:

[Cartons in thousands]

District 1		District 2		District 3		District 4		Total cartons
Cartons	Percent	Cartons	Percent	Cartons	Percent	Cartons	Percent	
1,100	100.0							1,100

3. A new § 907.1035 is added to read as follows:

§ 907.1035 Navel orange regulation 735.

The quantity of navel oranges grown in California and Arizona which may be handled during the period from November 6 through November 12, 1992, is as follows:

[Cartons in thousands]

District 1		District 2		District 3		District 4		Total cartons
Cartons	Percent	Cartons	Percent	Cartons	Percent	Cartons	Percent	
1,152	96.0	.....	.....	48	4.0	.....	.....	1,200

4. A new § 907.1036 is added to read as follows:

§ 907.1036 Navel orange regulation 736.

The quantity of navel oranges grown in California and Arizona which may be handled during the period from November 13 through November 19, 1992, is as follows:

[Cartons in thousands]

District 1		District 2		District 3		District 4		Total cartons
Cartons	Percent	Cartons	Percent	Cartons	Percent	Cartons	Percent	
1,229	94.5	.....	.....	71	5.5	.....	.....	1,300

5. A new § 907.1037 is added to read as follows:

§ 907.1037 Navel orange regulation 737.

The quantity of navel oranges grown in California and Arizona which may be handled during the period from November 20 through November 26, 1992, is as follows:

[Cartons in thousands]

District 1		District 2		District 3		District 4		Total cartons
Cartons	Percent	Cartons	Percent	Cartons	Percent	Cartons	Percent	
1,325	94.6	.....	.....	71	5.1	4	0.3	1,400

6. A new § 907.1038 is added to read as follows:

§ 907.1038 Navel orange regulation 738.

The quantity of navel oranges grown in California and Arizona which may be handled during the period from November 27 through December 3, 1992, is as follows:

[Cartons in thousands]

District 1		District 2		District 3		District 4		Total cartons
Cartons	Percent	Cartons	Percent	Cartons	Percent	Cartons	Percent	
1,504	94.0	10	0.6	72	4.5	14	0.9	1,600

7. A new § 907.1039 is added to read as follows:

§ 907.1039 Navel orange regulation 739.

The quantity of navel oranges grown in California and Arizona which may be handled during the period from December 4 through December 10, 1992, is as follows:

[Cartons in thousands]

District 1		District 2		District 3		District 4		Total cartons
Cartons	Percent	Cartons	Percent	Cartons	Percent	Cartons	Percent	
1,647	91.5	29	1.6	104	5.8	20	1.1	1,800

§ 907.1040 Navel orange regulation 740.

The quantity of navel oranges grown in California and Arizona which may be handled during the period from December 11 through December 17, 1992, is as follows:

District 1		District 2		District 3		District 4		Total cartons
Cartons	Percent	Cartons	Percent	Cartons	Percent	Cartons	Percent	
1,600	88.9	61	3.4	105	5.8	34	1.9	1,800

9. A new § 907.1041 is added to read as follows:

§ 907.1041 Navel orange regulation 741.

The quantity of navel oranges grown in California and Arizona which may be handled during the period from December 18 through December 24, 1992, is as follows:

District 1		District 2		District 3		District 4		Total cartons
Cartons	Percent	Cartons	Percent	Cartons	Percent	Cartons	Percent	
866	86.6	57	5.7	48	4.8	29	2.9	1,000

10. A new § 907.1042 is added to read as follows:

§ 907.1042 Navel orange regulation 742.

The quantity of navel oranges grown in California and Arizona which may be handled during the period from December 25 through December 31, 1992, is as follows:

District 1		District 2		District 3		District 4		Total cartons
Cartons	Percent	Cartons	Percent	Cartons	Percent	Cartons	Percent	
781	86.8	67	7.4	38	4.2	14	1.6	900

11. A new § 907.1043 is added to read as follows:

§ 907.1043 Navel orange regulation 743.

The quantity of navel oranges grown in California and Arizona which may be handled during the period from January 1 through January 7, 1993, is as follows:

District 1		District 2		District 3		District 4		Total cartons
Cartons	Percent	Cartons	Percent	Cartons	Percent	Cartons	Percent	
1,366	85.4	162	10.1	43	2.7	29	1.8	1,600

Dated: October 20, 1992.

Robert C. Keeney,
Deputy Director, Fruit and Vegetable Division.

[FR Doc. 92-25946 Filed 10-22-92; 8:45 am]
BILLING CODE 3410-02-M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 152

Notification to Importer of Increased Duties

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

ACTION: Proposed rule.

SUMMARY: This document proposes to amend § 152.2 of the Customs Regulations (19 CFR 152.2) to provide that the district director of Customs shall notify the importer on Customs Form 29, Notice of Action, when the estimated aggregate of the increase in duties on an entry exceeds $100. This proposed change will lessen the administrative burden and costs incurred by Customs associated with notifying the importer of minimal increases in duty. It will also reduce the number of pieces of correspondence received by importers and their Customs brokers which are associated with the particular entry.

DATES: Comments must be received on or before December 22, 1992.

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

FOR FURTHER INFORMATION CONTACT: Deann Seckler, Entry Rulings Branch, (202-566-5856).

SUPPLEMENTARY INFORMATION:

Background

Section 152.2 of the Customs Regulations (19 CFR 152.2) presently requires that the importer be notified on Customs Form 28 when the estimated aggregate of the increase in duties on an entry exceeds $15. The administrative costs incurred by Customs in notifying importers of increases in duty ranging between $15 and $100 are disproportionate to the amount of duties involved. This proposed change will lessen the administrative burden and costs associated with notifying the importer of minimal increases in duty. An increase in the minimum amount to $100 will not result in a significant reduction of services provided to the importing public. It will also reduce the number of pieces of correspondence received by importers and their Customs brokers which are associated with the entries. In addition, 19 CFR 152.2 presently incorrectly specifies CF-28, instead of CF-29, as the Customs Form for notifying the importer.

Comments

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

Regulatory Flexibility Act

For the reasons set forth in the preamble and pursuant to the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), it is hereby certified that the proposed amendments set forth in this document, if adopted, will not have a significant economic impact on a substantial number of small entities. Accordingly, they are not subject to the regulatory analysis or other requirements of 5 U.S.C. 603 and 604.

Executive Order 12291

This document does not meet the criteria for a "major rule" as specified in E.O. 12291. Accordingly, a regulatory impact analysis is not required.

Drafting Information

The principal author of this document was Deann Seckler, Entry Rulings Branch, U.S. Customs Service. However, personnel from other offices participated in its development.

List of Subjects in 19 CFR Part 152

Customs duties and inspection.

Proposed Amendment

It is proposed to amend part 152, Customs Regulations (19 CFR part 152), as set forth below:

PART 152—CLASSIFICATION AND APPRAISEMENT OF MERCHANDISE

1. The general authority citation for part 152 continues to read as follows:

Authority: 19 U.S.C. 66, 1401a, 1500, 1502, 1624.

* * * * *

2. It is proposed to revise § 152.2 to read as follows:

§ 152.2 Notification to importer of increased duties.

If the district director believes that the entered rate or value of any merchandise is too low, or if he finds that the quantity imported exceeds the entered quantity, and the estimated aggregate of the increase in duties on that entry exceeds $100, he shall promptly notify the importer on Customs Form 29, specifying the nature of the difference on the notice. Liquidation shall be made promptly and shall not be withheld for a period of more than 20 days from the date of mailing of such notice unless in the judgment of the district director there are compelling reasons that would warrant such action.

Approved: September 24, 1992.

Michael H. Lane,

Acting Commissioner of Customs.

Peter K. Nunez,

Assistant Secretary of the Treasury.

[FR Doc. 92-25699 Filed 10-22-92; 8:45 am]

BILLING CODE 4820-02-M

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Part 2647

RIN 1212-AA38

Reduction or Waiver of Complete Withdrawal Liability

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Proposed rule.

SUMMARY: The Pension Benefit Guaranty Corporation proposes to amend its regulation on Reduction or Waiver of Complete Withdrawal Liability by prescribing procedures under which multiemployer pension plans may adopt rules, subject to PBGC approval, for the reduction or waiver of complete withdrawal liability, and standards for PBGC approval of such rules. The Employee Retirement Income Security Act of 1974 directs the PBGC to prescribe such procedures and standards. If adopted, the amendment would allow multiemployer pension plans to develop their own rules for the reduction or waiver of complete withdrawal liability. The proposed amendment would also provide less restrictive time limits on employers' applications to plans for abatement of complete withdrawal liability.

DATES: Comments must be submitted on or before December 22, 1992.

ADDRESSES: Comments may be sent to the Office of the General Counsel (22500), Pension Benefit Guaranty Corporation, 2020 K Street, NW., Washington, DC 20006, or delivered to room 7200, 2020 K Street, NW., Washington, DC 20006 between 9 a.m. and 5 p.m. Comments received may also be inspected at room 7200 between 9 a.m. and 5 p.m.

FOR FURTHER INFORMATION CONTACT: Ralph L. Landy, Attorney, (202) 778-8897 (202-778-1958 for TTY and TDD).

SUPPLEMENTARY INFORMATION:

Background

Section 4203 of the Employee Retirement Income Security Act of 1974, as amended ("ERISA" or "the Act"), sets forth the circumstances under which an employer is deemed to have completely withdrawn from a multiemployer pension plan. The amount of complete withdrawal liability is calculated under section 4211. Section 4207(a) requires the PBGC to provide by regulation for the reduction or waiver of complete withdrawal liability in the event that an employer that has withdrawn from a plan subsequently resumes covered operations under the plan or renews an obligation to contribute under the plan, to the extent that PBGC determines that reduction or waiver of complete withdrawal liability is consistent with the purposes of ERISA. Section 4207(b) requires the PBGC to prescribe by regulation a procedure and standards for the amendment of plans to provide alternative rules for the reduction or waiver of complete withdrawal liability in the event that an employer that has withdrawn from a plan subsequently resumes covered operations under the plan or renews an obligation to contribute under the plan, to the extent such rules are consistent with the purposes of ERISA.

The PBGC's regulations on Reduction or Waiver of Complete Withdrawal

Liability (29 CFR part 2647; see also 29 CFR 2640.6) provides rules requiring pension plans to reduce or waive complete withdrawal liability under ERISA section 4207(a). However, the regulation does not provide a procedure for pension plans to adopt alternative rules for reduction or waiver of complete withdrawal liability under ERISA section 4207(b).

When the PBGC proposed the regulation on Reduction or Waiver of Complete Withdrawal Liability, the PBGC was not prepared to propose rules under section 4207(b). The PBGC believed at that time, however, that "it is important to provide the relief contemplated under section 4207(a)." (49 FR 8036.) Consequently, the PBGC decided to propose and issue rules under section 4207(a) at that time and to promulgate rules under section 4207(b) at a later date. The PBGC is now prepared to propose rules under section 4207(b).

The proposed regulation would add a new § 2647.9 to part 2647 to provide a procedure for pension plans to adopt alternative rules for reduction or waiver of complete withdrawal liability. Section 2647.9(a)–(c) would require a plan sponsor to submit a written request for PBGC approval of a plan amendment adopting rules for the reduction or waiver of complete withdrawal liability. Section 2647.9 (d) and (e) would describe the information to be submitted to the PBGC for its review of the request. Section 2647.9(f) would provide that the PBGC would approve a plan amendment if it determined that the abatement rules in the amendment were consistent with the purposes of ERISA. An abatement rule would be considered inconsistent with the purposes of ERISA if implementation of the rule would be adverse to the interests of plan participants and beneficiaries or if the rule would increase the PBGC's risk of loss with respect to the plan.

The proposed regulation would also amend § 2647.2(a), which governs the procedure for employers resuming covered operations under a multiemployer pension plan to apply to the plan for abatement of complete withdrawal liability. The current regulation requires the application to be filed by the date of the first scheduled withdrawal liability payment falling due after the employer resumes covered operations. Read literally, this would mean that an employer resuming covered operations one day before a scheduled withdrawal liability payment falls due would have just one day to file an application for abatement of complete withdrawal liability. The proposed changes to § 2647.2(a) would give an employer resuming covered operations at least fifteen days from the date of resuming covered operations to file its application for abatement of complete withdrawal liability. An editorial change would also be made to § 2647.1(a) to expand the purpose of the regulation to cover both section 4207(a) and section 4207(b) of ERISA.

Compliance With Rulemaking Guidelines

PBGC has determined that this proposed regulation is not a "major rule" for the purposes of Executive Order 12291, because it would not have an annual effect on the economy of $100 million or more; create a major increase in costs or prices for consumers, individual industries, or geographic regions; or have significant adverse effects on competition, employment, investment, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. This determination is based on the fact that the proposed regulation would reduce costs that would otherwise be imposed by ERISA. It would do this by giving multiemployer plan sponsors latitude to develop alternative rules for reduction or waiver of complete withdrawal liability of employers resuming covered operations under the plan.

Under section 605(b) of the Regulatory Flexibility Act, the PBGC certifies that this proposed rule would not have a significant economic impact on a substantial number of small entities. Pension plans with fewer than 100 participants have traditionally been treated as small plans. This regulation would affect only multiemployer plans covered by PBGC. If "small plans" are defined as those with under 100 participants, they represent less than 6 percent of all multiemployer plans covered by PBGC (118 out of 2000). Approximately 500,000 employers contribute to multiemployer plans, most of them small employers (under 100 employees). PBGC estimates that fewer than 10,000 (2 percent) of these employers are required to pay complete withdrawal liability in any year, and an even smaller percentage subsequently resume their participation under a plan and would thereby become subject to these rules. Therefore, PBGC waives compliance with sections 603 and 604 of the Regulatory Flexibility Act.

Paperwork Reduction Act

The collection of information requirements contained in this proposed regulation (viz., in § 2647.9) has been submitted for review by the Office of Management and Budget under section 3504(h) of the Paperwork Reduction Act of 1980. As discussed above, the information is to be submitted by multiemployer plans that adopt plan rules on abatement of complete withdrawal liability. As also discussed above, the PBGC needs this information to assure that such rules are consistent with ERISA and to guard against the increased risk of plan insolvency caused by excessive abatements of withdrawal liability.

The PBGC estimates that not more than ten plans per year would make submissions under § 2647.9 and that each submission would take one-quarter hour to prepare and submit. The total estimated annual burden resulting from this collection of information is not more than two and a half hours. Comments on this collection of information should be addressed to: Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Desk Officer for Pension Benefit Guaranty Corporation, Washington, DC 20503.

List of Subjects in 29 CFR Part 2647

Employee benefit plans, Pension Benefit Guaranty Corporation, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, the PBGC proposes to amend 29 CFR part 2647 as follows:

PART 2647—REDUCTION OR WAIVER OF COMPLETE WITHDRAWAL LIABILITY

1. The authority citation for part 2647 is revised to read as follows:

Authority: 29 U.S.C. 1302(b)(3) and 1367.

2. Section 2647.1 is amended by adding a sentence to the end of paragraph (a) to read as follows:

§ 2647.1 Purpose and scope.

(a) *Purpose.* * * * This part also provides procedures, pursuant to section 4207(b) of the Act, for plan sponsors of multiemployer plans to apply to PBGC for approval of plan amendments that provide for the reduction or waiver of complete withdrawal liability under conditions other than those specified in section 4207(a) and this part.

* * * * *

3. Section 2647.2 is amended by revising the second and fourth sentences of paragraph (a) to read as follows:

§ 2647.2 Abatement.

(a) *General.* * * * Applications shall be filed by the date of the first scheduled withdrawal liability payment falling due after the employer resumes covered operations or, if later, the

fifteenth calendar day after the employer resumes covered operations. * * * Upon receiving an application for abatement, the plan sponsor shall determine, in accordance with paragraph (b) of this section, whether the employer satisfies the requirements for abatement of its complete withdrawal liability under § 2647.4, § 2647.8, or a plan amendment which has been approved by PBGC pursuant to § 2647.9. * * *

* * * * *

4. Section 2647.9 is added to read as follows:

§ 2647.9 Plan rules for abatement.

(a) *General rule.* Subject to the approval of the PBGC, a plan may, by amendment, adopt rules for the reduction or waiver of complete withdrawal liability under conditions other than those specified in §§ 2647.4 and 2647.8 (c) and (d), provided that such conditions relate to events occurring or factors existing subsequent to a complete withdrawal year. The request for PBGC approval shall be filed after the amendment is adopted. A plan amendment under this section may not be put into effect until it is approved by the PBGC. However, an amendment that is approved by the PBGC may apply retroactively to the date of the adoption of the amendment. PBGC approval shall also be required for any subsequent modification of the amendment, other than repeal of the amendment. Sections 2647.5, 2647.6, and 2647.7 of this part shall apply to all subsequent partial withdrawals after a reduction or waiver of complete withdrawal liability under a plan amendment approved by the PBGC pursuant to this section.

(b) *Who may request.* The plan sponsor, or a duly authorized representative acting on behalf of the plan sponsor, shall sign and submit the request.

(c) *Where to file.* The request shall be addressed to the Administrative Review and Technical Assistance Division (45400), Case Operations and Compliance Department, Pension Benefit Guaranty Corporation, 2020 K Street, NW., Washington, DC 20006.

(d) *Information.* Each request shall contain the following information:

(1) The name and address of the plan for which the plan amendment is being submitted and the telephone number of the plan sponsor or its duly authorized representative.

(2) The nine-digit Employer Identification Number (EIN) assigned to the plan sponsor by the Internal Revenue Service and the three-digit Plan Identification Number (PN) assigned to the plan by the plan sponsor, and, if different, the EIN and PN last filed with the PBGC. If no EIN or PN has been assigned, that should be indicated.

(3) A copy of the executed amendment, including—

(i) The date on which the amendment was adopted;

(ii) The proposed effective date; and

(iii) The full text of the rules on the reduction or waiver of complete withdrawal liability.

(4) A copy of the most recent actuarial valuation report of the plan.

(5) A statement certifying that notice of the adoption of the amendment and of the request for approval filed under this section has been given to all employers that have an obligation to contribute under the plan and to all employee organizations representing employees covered under the plan.

(e) *Supplemental information.* In addition to the information described in paragraph (d) of this section, a plan may submit any other information that it believes is pertinent to its request. The PBGC may require the plan sponsor to submit any other information that the PBGC determines it needs to review a request under this section.

(f) *Criteria for PBGC approval.* The PBGC shall approve a plan amendment authorized by paragraph (a) of this section if it determines that the rules therein are consistent with the purposes of the Act. An abatement rule is not consistent with the purposes of the Act if—

(1) Implementation of the rule would be adverse to the interest of plan participants and beneficiaries; or

(2) The rule would increase the PBGC's risk of loss with respect to the plan.

Issued at Washington, DC on this 19th day of October, 1992.

James B. Lockhart III,

Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 92-25771 Filed 10-22-92; 8:45 am]

BILLING CODE 7708-01-M

DEPARTMENT OF LABOR

Mine Safety and Health Administration

30 CFR Parts 18 and 75

RIN 1219-AA75

Electric Motor-Driven Mine Equipment and Accessories and High-Voltage Longwall Equipment Standards for Underground Coal Mines

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Extension of comment period.

SUMMARY: The Mine Safety and Health Administration (MSHA) is extending the period for public comment on the Agency's proposed rules regarding electric motor-driven mine equipment and accessories and high-voltage longwall equipment for underground coal mines at the request of the mining community.

DATES: Written comments must be received on or before November 13, 1992.

ADDRESSES: Send comments to the Office of Standards, Regulations and Variances, MSHA, room 631, 4015 Wilson Boulevard, Arlington, VA 22203.

FOR FURTHER INFORMATION CONTACT: Patricia W. Silvey, Director, Office of Standards, Regulations and Variances, MSHA, (703) 235-1910.

SUPPLEMENTARY INFORMATION: On August 27, 1992, MSHA published two proposed rules (57 FR 39036 and 57 FR 39041) addressing approval requirements and safety standards that are applicable to high-voltage longwall equipment for use in underground coal mines. The comment period was scheduled to close on October 26, 1992, but in response to requests from the mining community, the Agency is extending the comment period to November 13, 1992. All interested parties are encouraged to submit comments prior to that date.

Dated: October 20, 1992.

Janice O. Faiks,

Deputy Assistant Secretary for Mine Safety and Health.

[FR Doc. 92-25770 Filed 10-22-92; 8:45 am]

BILLING CODE 4510-43-M

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 3

RIN 2900-AF83

Evidence Requirements

AGENCY: Department of Veterans Affairs.

ACTION: Proposed rule.

SUMMARY: The Department of Veterans Affairs (VA) is proposing to amend its adjudication regulations regarding the evidence requirements to establish military service and dependency. This amendment is necessary to expedite payment of benefits in certain instances. The intended effect of this amendment is to improve the efficiency and timeliness of claims processing.

DATES: Comments must be received on or before November 23, 1992. Comments will be available for public inspection until December 2, 1992. The amendment is proposed to be effective the date of publication of the final rule.

ADDRESSES: Interested persons are invited to submit written comments, suggestions, or objections regarding this amendment to Secretary of Veterans Affairs (271A), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420. All written comments received will be available for public inspection only in the Veterans Services Unit, room 170, at the above address between the hours of 8 a.m. and 4:30 p.m., Monday through Friday (except holidays), until December 2, 1992.

FOR FURTHER INFORMATION CONTACT: John Bisset, Jr., Consultant, Regulations Staff, Compensation and Pension Service, Veterans Benefits Administration, (202) 233-3005.

SUPPLEMENTARY INFORMATION: Prior to October 28, 1980, VA accepted photo copies of discharge documents as proof of military service unless there was some reason to question the genuineness of the documents. However, 38 CFR 3.203 was amended to provide that VA may accept a copy of an original discharge document as proof of military service, but only if the copy was issued by the appropriate service department or by a public custodian of records who certifies that it is a true and exact copy of the document in his or her custody. If this type of evidence is not submitted, VA requests verification of military service from the appropriate service department.

No general review of previously allowed claims was conducted when § 3.203 was amended, so veterans who had previously been awarded compensation or pension based upon uncertified copies of discharge documents continue to receive those benefits. When one of those veterans dies, however, VA requests evidence of military service which satisfies the more stringent current requirements before authorizing payment of the one-time, nonservice-connected burial benefit. The maximum amount of the one-time burial benefit is $450 ($300 burial allowance plus $150 plot allowance), and it is payable only when the veteran was entitled to receive compensation or pension as of the date of death, or died in a VA hospital. It has been our experience that we are ultimately able to verify the service of virtually all of these veterans. We have therefore determined that the delay in authorizing payment which verification entails and the resulting distress to survivors are not warranted, and that evidence relied upon to authorize payment of compensation or pension is sufficient to authorize payment of the one-time, nonservice-connected burial benefit. We propose to amend 38 CFR 3.203(c) accordingly.

Prior to June 14, 1982, VA accepted the veteran's certified statement, under most circumstances, as proof of marriage; however, many claimants also submitted uncertified copies of the public record of marriage to support their claims. In 1982 VA began to require more than a certified statement as proof of marriage, with certified copies of the public or church record of marriage being the preferred type of evidence. No general review of claims in which the additional allowance for a spouse had been authorized was conducted, however. When a veteran who receives compensation or pension benefits dies, claims for death pension or dependency and indemnity compensation may be delayed while VA requests currently acceptable proof of marriage. This is true even though VA recognized the surviving spouse as a dependent while the veteran was alive and even though VA has on record an uncertified copy of the public record of marriage supporting a certified statement from the deceased veteran as well as the surviving spouse's certified statement on the application for death benefits. To require a certified marriage document under these circumstances results in unwarranted expense, inconvenience and loss of time to surviving spouses at a very difficult time. We are therefore proposing to amend 38 CFR 3.205(a)(1) to allow payment of death benefits to a surviving spouse based upon an uncertified copy of the public record of marriage, provided that the veteran was receiving compensation or pension, to include the additional allowance for a spouse, as of the date of death.

These amendments are proposed to be effective the date of publication of the final rule. The Secretary finds good cause for doing so since these amendments will not work to the detriment of any claimant. This decision is fully consistent with VA's longstanding policy to administer the law under a broad interpretation for the benefit of veterans and their dependents (38 CFR 3.102).

The Secretary hereby certifies that this regulatory amendment will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (RFA), 5 U.S.C. 601-612. The reason for this certification is that this amendment would not directly affect any small entities. Only VA beneficiaries could be directly affected. Therefore, pursuant to 5 U.S.C. 605(b), this amendment is exempt from the initial and final regulatory flexibility analysis requirements of sections 603 and 604.

In accordance with Executive Order 12291, Federal Regulation, the Secretary has determined that this regulatory amendment is non-major for the following reasons:

(1) It will not have an annual effect on the economy of $100 million or more.

(2) It will not cause a major increase in costs or prices.

(3) It will not have 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.

The Catalog of Federal Domestic Assistance program numbers are 64.101, 54.105 and 64.110.

List of Subjects in 38 CFR Part 3

Administrative practice and procedure, Claims, Handicapped, Health care, Pensions, Veterans.

Approved: August 14, 1992.

Edward J. Derwinski,

Secretary of Veterans Affairs.

For the reasons set out in the preamble, 38 CFR part 3 is proposed to be amended as set forth below:

PART 3—ADJUDICATION

Subpart A—Pension, Compensation, and Dependency and Indemnity Compensation

1. The authority citation for part 3, subpart A, continues to read as follows:

Authority: 105 Stat. 386; 38 U.S.C. 501(a), unless otherwise noted.

2. In § 3.203, paragraph (c) is amended by adding a new second sentence to reads as follows:

§ 3.203 Service records as evidence of service and character of discharge.

* * * * *

(c) *Verification from the service department.* * * * However, payment of nonservice-connected burial benefits may be authorized, if otherwise in order, based upon evidence of service which VA relied upon to authorize payment of compensation or pension during the veteran's lifetime, provided that there is no evidence which would serve to create doubt as to the correctness of that service evidence. * * *

3. In § 3.205, paragraph (a)(1) is revised to read as follows:

§ 3.205 Marriage.

(a) *Proof of marriage.* Marriage is established by one of the following types of evidence:

(1) Copy of the public record of marriage, certified or attested, or by an abstract of the public record, containing sufficient data to identify the parties, the date and place of the marriage, and the number of prior marriages by either party if shown on the official record, issued by the officer having custody of the record or one authorized to act for such officer bearing the seal of such officer, or otherwise properly identified, or a certified copy of the church record of marriage. However, payment of death benefits to a surviving spouse may be authorized, if otherwise in order, based upon an uncertified copy of the public record of marriage substantiating the veteran's certified statement which VA relied upon to establish the claimant as the spouse for compensation or pension payments which the veteran was entitled to receive at the time of his or her death, provided that there is no evidence which would serve to create doubt as to the correctness of that copy.

* * * * *

[FR Doc. 92-24924 Filed 10-22-92; 8:45 am]

BILLING CODE 8320-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[IN11-1-5193; FRL-4526-5]

Approval and Promulgation of Implementation Plans; Indiana

AGENCY: United States Environmental Protection Agency (USEPA).

ACTION: Proposed rule.

SUMMARY: USEPA is proposing to disapprove a request by the State of Indiana to revise its State Implementation Plan (SIP) for lead to include fugitive lead control plans. Indiana is required to submit these plans pursuant to the SIP, as approved in USEPA's rulemaking actions on April 19, 1988 (53 FR 12896) and on October 3, 1988 (53 FR 38719). This revision request was submitted by the State on November 9, 1989, to satisfy the requirements of Section 110 of the Clean Air Act.

DATES: Comments on this revision request and on the proposed USEPA action must be received by November 23, 1992.

ADDRESSES: Copies of the SIP revision request and USEPA's analysis are available for inspection at the following address: (It is recommended that you telephone Gustavo Felix at (312) 353-6009, before visiting the Region 5 Office.) U.S. Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604.

Written comments should be sent to: J. Elmer Bortzer, Chief, Regulation Development Section, Regulation Development Branch (5AR-18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Gustavo Felix, Regulation Development Branch, Regulation Development Section (5AR-18J), U.S. Environmental Protection Agency, Region 5, Chicago, Illinois 60604, (312) 353-6009.

SUPPLEMENTARY INFORMATION:

I. Summary of State Submittal

Presented below is a summary of the State's submittal and USEPA's analysis of it. The State's submittal and USEPA's detailed evaluation are available for inspection at the USEPA Region 5 Office listed above.

On April 19, 1988 (53 FR 12896), and October 3, 1988 (53 FR 38719), USEPA approved most of Indiana's SIP for lead, including 325 IAC 15-1.[1] 325 IAC 15-1-3 contains a requirement for certain lead sources to submit operation and maintenance programs and fugitive lead control plans. The fugitive lead control plans, which are to be contained in revised operating permits, were to be designed to minimize emissions of lead from all fugitive emission points. The control plans were also to include good housekeeping practices for the clean up of spills and for minimizing emissions from loading and unloading areas as applicable. These control plans, which were to be submitted to USEPA by the State for approval as SIP revisions, are the subjects of this proposed rulemaking.

The sources required to submit control plans under 325 IAC 15-1 [2] are:

Refined Metals Corporation, Indianapolis
Chyrsler Foundry, Indianapolis
Delco Remy, Division of General Motors Corporation, Muncie
Oxide and Chemical Corporation, Brazil
Hammond Lead Products, Lead Plant and Halstab Division, Hammond
Exide Corporation, Frankfort and Logansport
C and D Power Systems, Attica
Quemetco, Incorporated, Indianapolis
U.S.S. Lead Refinery, East Chicago

Control plans were developed all of the above companies, except for U.S.S. Lead Refinery and Quemetco.[3]

II. Analysis of State Submittal

A. General Comments

USEPA has reviewed the portion of the SIP revision request related to the control plan submittal requirement and presented below are the results of its review. Each of the deficiencies cited below applies to each of the respective control plans, unless otherwise specified in the discussion.

1. 325 IAC 15-1-3 requires control plans to be designed to minimize emissions of lead from all fugitive emission points. Some of the submitted plans, however, address only non-process fugitive dust. Each plan must have a list identifying all sources with the potential to emit fugitive dust and then specify what measures are to be used to control the emissions.

2. 325 IAC 15-1-3 requires fugitive dust plans to include good housekeeping practices for the cleanup of spills. Only the plan for C & D Power Systems contains specific and enforceable measures. The plans for Chrysler Foundry and Refined Metals do not address the clean-up of spills at all.

3. 325 IAC 15-1-3 requires fugitive dust plans to be submitted as revisions to the SIP; but operations and maintenance (O&M) plans were to be submitted for USEPA comments only. Indiana does not clearly indicate which parts of the submittal to USEPA are to be incorporated into the SIP as fugitive dust control plans.

B. Additional Source-Specific Comments on the Lead Control Plans

1. Hammond Lead Products (HLP)

The Fugitive Lead Dust Control Program, in item 4, states that: "All of

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[1] A detailed discussion of the Indiana lead plan is provided in the April 19, 1988 and October 3, 1988 Federal Register notices.

[2] Subsequent to USEPA's approval of Indiana's Lead rule in 325 IAC 15 Indiana recodified this rule (and its other air pollution control rules) under title 326. USEPA has not taken action on this recodification nor on subsequent modifications to 326 IAC 15.

[3] The U.S.S. Lead refinery facility has shut down. Quemetco is currently involved in litigation concerning Indiana's lead rules against both State and USEPA. See *Quemetco Inc.* v. *Air Pollution Control Board*, Case No. 29C01-8808-00536 (Hamilton Circuit Court), and *Quemetco, Inc.* v *USEPA*, No. 88-3129 (7th Cir.)

HLP's outdoor paved surfaces shall be maintained to minimize accumulation of lead dust." This requirement is too vague; specific procedures for implementation must be identified.

2. C and D Power Systems

In section III, Lead Oxide Unloading Procedures allows excessive discretion to the plant safety coordinator regarding the process to be followed for lead oxide unloading procedures. The plan must specify that any deviation from normal unloading procedures is allowed only under emergency conditions. Also, any such deviation from normal procedures must be recorded.

3. Delco Remy

The last paragraph, page two, in Delco Remy's program states: "Any hazardous material that is spilled that has been consigned to a truck is the responsibility of the trucking firm and that firm shall be required to have a contingency plan to act on such matters * * *". The Delco Remy plan must include specific clean up procedures if a spill occurs on the road.

III. Proposed Rulemaking Action and Solicitation of Public Comment

As discussed above, the fugitive dust plans lacks the specificity that is needed for them to be adequately enforceable. For these reasons, USEPA proposes to disapprove this submittal as a revision to the Indiana SIP.

Public comment is solicited on the State's submittal and on USEPA's proposal. Comment received by the date listed above will be considered in the development of USEPA's final rule.

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

This action has been classified as a Table 3 action by the Regional Administrator under the procedures published in the Federal Register on January 19, 1989 (54 FR 2214–2225). On January 6, 1989, the Office of Management and Budget (OMB) waived Table 2 and 3 SIP revisions (54 FR 2222) from the requirements of section 3 of Executive Order 12291 for a period of 2 years. USEPA has submitted a request for a permanent waiver for Table 2 and Table 3 SIP revisions. The OMB has agreed to continue the temporary waiver until such time as it rules on USEPA's request.

Under 5 U.S.C. 605(b), USEPA must determine the impact of this rule on small entities. If USEPA finally disapproves this State regulation, it will not have a significant impact on a substantial number of small entities. It merely disapproves the incorporation of stated adopted requirements into the SIP. It imposes no additional requirements.

The Clean Air Act Amendments of 1990 were enacted on November 15, 1990, Public Law 101–549, 104 Stat. 2399, codified at 42 U.S.C. 7401–7671q. Sections 191(a) and 192(a) of the 1990 Amendments continue new requirements for lead nonattainment areas which the State is in the process of addressing. In addition, section 193 of the 1990 Amendments provides that each regulation, standard, rule, notice, order and guidance promulgated or issued by USEPA prior to the Amendments' enactment shall remain in effect (with certain exceptions not relevant here). This includes the SIP requirement for submittal of these control plans.

List of Subjects in 40 CFR Part 52

Lead, Reporting and recordkeeping requirements.

Authority: 42 U.S.C. 7401–7671(q).

Dated: September 25, 1992.

Valdas V. Adamkus,

Regional Administrator.

[FR Doc. 92–25764 Filed 10–22–92; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 2

[ET Docket 92–191; FCC 92–370]

Upgrading the Mobile-Satellite Service Allocation at 19.7–20.2 GHz and 29.5–30.0 GHz

AGENCY: Federal Communications Commission.

ACTION: Proposed rules; correction.

SUMMARY: The Federal Register preamble of this item, published Thursday, September 17, 1992 (57 FR 42916), did not contain a Regulatory Flexibility Analysis. Therefore, this Analysis is presented below under Supplementary Information. It should be inserted in the second column on page 42916, before "List of Subjects."

FOR FURTHER INFORMATION CONTACT: Carl Huie, Office of Engineering and Technology, (202) 653–8112.

SUPPLEMENTARY INFORMATION:

Regulatory Flexibility Analysis

The Commission certifies that the Regulatory Flexibility Act of 1980 does not apply to this rule making proceeding because if the proposed rule amendments are promulgated, there will not be a significant economic impact on a substantial number of small business entities, as defined by section 601(3) of the Regulatory Flexibility Act. The Secretary shall send a copy of this Notice of Proposed Rule Making, including the certification, to the Chief Counsel for Advocacy of the Small Business Administration in accordance with paragraph 603(a) of the Regulatory Flexibility Act, Public Law No. 96–354, 94 Stat. 1164, 5 U.S.C. 601 *et seq.* (1981).

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 92–25683 Filed 10–22–92; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Parts 2, 21, 22, and 94

[ET Docket No. 92–9; FCC 92–357]

Redevelopment of Spectrum to Encourage Innovation in the Use of New Telecommunications Technologies

AGENCY: Federal Communications Commission.

ACTION: Proposed Rule; correction.

SUMMARY: The Federal Register preamble of this item, published Thursday, September 17, 1992 (57 FR 42916), did not contain a Regulatory Flexibility Analysis. Therefore, this Analysis is presented below under Supplementary Information. It should be inserted in the first column on page 42918, before "List of Subjects."

FOR FURTHER INFORMATION CONTACT: Rodney Small, Office of Engineering and Technology, (202) 653–8116.

SUPPLEMENTARY INFORMATION:

Regulatory Flexibility Analysis

Pursuant to the Regulatory Flexibility Act of 1980, the Commission finds as follows:

A. Reason for Action

This rulemaking proceeding is initiated to obtain comment regarding rules for relocating 2 GHz fixed microwave users to bands above 3 GHz.

B. Objective

The object of this proposal is to reaccommodate current 2 GHz common carrier and private fixed microwave operators above 3 GHz with appropriate

channelization plans and technical rules.

C. Legal Basis

The proposed action is authorized by sections 4(i), 303(c), 303(f), 303(g), and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 303(c), 303(f), 303(g), and 303(r). These provisions authorize the Commission to make such rules and regulations as may be necessary to encourage more effective use of radio in the public interest.

D. Description, Potential Impact, and Number of Small Entities Affected

This proposal would provide for the reaccommodation above 3 GHz of 2 GHz private and common carrier fixed microwave operators, some of which are small entities. This proposal may provide new opportunities for radio manufacturers and suppliers of radio equipment, some of which may be small businesses, to develop and sell new equipment in the bands above 3 GHz. The Commission invites specific comment by interested parties on the likely magnitude of the impact on small radio manufacturers and suppliers.

E. Reporting, Recordkeeping, and Other Compliance Requirements

None.

F. Federal Rules That Overlap, Duplicate or Conflict With This Rule

None.

G. Significant Alternatives

If promulgated, this proposal will reaccommodate 2 GHz fixed microwave users in the most beneficial way to them and the broader public interest. The Commission is unaware of other alternatives that would be as desirable. It solicits comments on this point.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 92-25684 Filed 10-22-92; 8:45 am]

BILLING CODE 6712-01-M

INTERSTATE COMMERCE COMMISSION

49 CFR Parts 1039 and 1145

[Ex Parte No. 394 (Sub-No. 10)]

Railroad Rates on Recyclables—Exemptions

AGENCY: Interstate Commerce Commission.

ACTION: Proposed rule; extension of comment due date.

SUMMARY: In a notice of proposed rulemaking served September 8, 1992 (57 FR 41122-41123, September 9, 1992), the Commission requested comments by October 29, 1992, and replies by November 30, 1992, on a proposal to exempt from regulation the rail transportation of nonferrous recyclable commodities that appear to recover revenues that are lower than the variable costs of the transportation. The proposal would deregulate rates on exempted commodities; those rates would not be subject to the evidentiary requirements associated with annual compliance proceedings that govern other recyclable commodities. The Commission also noted it was receptive to petitions seeking exemption for other named commodities if the affected shippers and carriers were amenable. By petition filed October 19, 1992, The Institute of Scrap Recycling Industries, Inc. (ISRI), with the support of eight other parties, requests an extension of time until December 1, 1992, to file comments, and to December 31, 1992, to reply. ISRI states additional time is needed because it is currently negotiating with representatives of the railroad industry concerning exemption proposals with respect to the other named commodities. The extension request is reasonable and will be granted because it will permit parties to negotiate regarding commodities possibly to be included in the exemption proposal.

DATES: Comments are due on December 1, 1992. Replies are due on December 31, 1992.

ADDRESSES: Send an original and 10 copies of comments referring to Ex Parte No. 394 (Sub-No. 10) to: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT: David Groves: (202) 927-6395. Craig Keats: (202) 927-6395. [TDD for the hearing impaired: (202) 927-5721].

Decided: October 20, 1992.

By the Commission, Sidney L. Strickland, Jr., Secretary.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 92-25775 Filed 10-22-92; 8:45 am]

BILLING CODE 7035-01-M

Notices

Federal Register
Vol. 57, No. 206
Friday, October 23, 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. 92-144-2]

Receipt of Permit Applications for Release Into the Environment of Genetically Engineered Organisms; Correction

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice; correction.

SUMMARY: We are correcting an editorial error that appeared in a notice published in the **Federal Register** on September 11, 1992 (57 FR 41722-41723, Docket No. 92-144-1). The notice advised the public that two applications for permits to release genetically engineered organisms into the environment were being reviewed by the Animal and Plant Health Inspection Service, and that the applications had been submitted in accordance with 7 CFR part 340, which regulates the introduction of certain genetically engineered organisms and products. In the fourth column of the chart on page 41723, the organisms to be field tested for permit application number 92-232-01, received from the Monsanto Agricultural Company on August 19, 1992, were incorrectly listed as "Soybean plants genetically engineered to express a gene from *Bacillus thuringiensis* subsp. *kurstaki* (Btk) for resistance to lepidopteran insects." The correct entry is "Corn plants genetically engineered to express a gene from *Bacillus thuringiensis* subsp. *kurstaki* (Btk) for resistance to lepidopteran insects."

FOR FURTHER INFORMATION CONTACT: Dr. Arnold Foudin, Deputy Director, Biotechnology Permits, Biotechnology, Biologics, and Environmental Protection, APHIS, USDA, room 850, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436-7612.

Done in Washington, DC, this 19th day of October 1992.

Lonnie J. King,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 92-25762 Filed 10-22-92; 8:45 am]

BILLING CODE 3410-34-M

Forest Service

Sequoia National Forest; Environmental Impact Statement

AGENCY: Forest Service, USDA.

ACTION: Notice of intent.

SUMMARY: The Forest Service will prepare an Environmental Impact Statement (EIS) on a proposed Amendment to the Land and Resource Management Plan to reflect changes agreed to in the 1990 Mediated Settlement Agreement (MSA), as well as new information obtained since the date of the MSA, on the Sequoia National Forest, Tulare County, California.

ADDRESSES: Submit written comments and suggestions to Sandra H. Key, Forest Supervisor, Sequoia National Forest, 900 W. Grand Avenue, Porterville, California 93257-2035.

FOR FURTHER INFORMATION CONTACT: Direct questions about the proposed Amendment to Julie Allen, Land Management Planning Officer, Sequoia National Forest, 900 W. Grand Avenue, Porterville, California 93257-2035, telephone (209) 784-1500.

SUPPLEMENTARY INFORMATION: The Sequoia National Forest encompasses approximately 1,120,000 acres of National Forest land.

A range of alternatives for this proposed EIS will be considered. One of these will be a no action/no change alternative, essentially leaving the current Land and Resource Management Plan in place. Other alternatives will propose to adopt the 1990 Mediated Settlement Agreement as is, adopt the Mediated Settlement Agreement with modifications to provide for recreation opportunities, habitat for wildlife and fisheries, timber harvesting, livestock summer forage, and watershed protection not recognized at the time the agreement was signed.

Ronald E. Stewart, Regional Forester, Pacific Southwest Region is the responsible official.

Public participation will be especially important at several points during the analysis. The first point is during the early scoping process. The early scoping period will be open to the public, beginning on the day following publication of this notice. Public meeting will be held, however a schedule has not been prepared. When such a schedule has be determined, a supplementary notice shall be filed. In both the early and formal scoping processes, the Forest Service will be seeking information, comments, and assistance from Federal, State, and local agencies and other individuals or organizations who may be interested in or affected by the proposed action. This input will be used in preparation of the draft environmental impact statement (DEIS). The scoping process includes:

1. Identifying potential issues.
2. Identifying issues to be analyzed in depth.
3. Eliminating insignificant issues or those which have been covered by a previous environmental review.
4. Exploring additional alternatives.
5. Identifying potential environmental effects of the proposed action and alternatives (i.e., direct, indirect, and cumulative effects and connected actions).
6. Determining potential cooperating agencies and task assignments.

The draft EIS (DEIS) is expected to be filed with the Environmental Protection Agency (EPA) and to be available for public review by the spring of 1994. At that time EPA will publish a notice of availability of the DEIS in the Federal Register.

The comment period on the DEIS will be 90 days from the date that EPA's Notice of Availability appears in the Federal Register. It is very important that those interested in the management of the Sequoia National Forest participate at that time. To be the most helpful, comments on the DEIS should be as specific as possible and may address the adequacy of the statement or the merits of the alternatives discussed (see The Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3). Comments should

refer to specific pages or chapters of the DEIS.

Federal court decisions have established that reviewers of DEIS's must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewers' position and contentions, *Vermont Yankee Nuclear Power Corp.* v. *NRDC*, 435 U.S. 519, 553 (1978). Also, environmental objections that could be raised at the DEIS stage, but that are not raised until after completion of the final EIS may be waived or dismissed by the courts, *City of Angoon* v. *Hodel*, 803 F. 2d 1016, 1022 (9th Cir. 1986) and *Wisconsin Heritages, Inc.* v. *Harris*, 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the comment period on the DEIS so that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the final EIS.

After the comment period for the draft EIS ends, the comments received will be analyzed and considered by the Forest Service in the preparation of the Final EIS.

Dated: October 15, 1992.

Sandra H. Key,

Forest Supervisor.

[FR Doc. 92-25695 Filed 10-22-92; 8:45 am]

BILLING CODE 3410-11-M

DEPARTMENT OF COMMERCE

International Trade Administration

[A-351-813]

Certain Alloy and Carbon Hot-Rolled Bars, Rods and Semifinished Products of Special Bar Quality Engineered Steel Products From Brazil; Postponement of Preliminary Antidumping Duty Determination

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

EFFECTIVE DATE: October 23, 1992.

FOR FURTHER INFORMATION CONTACT: Cherie L. Rusnak or Linda L. Pasden, Office of Agreements Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230, telephone (202) 482-3793.

POSTPONEMENT: On October 6, 1992, the Timken Company and Republic Engineered Steels, Inc., the petitioners in this investigation, requested that the Department postpone the preliminary determination in this investigation from November 16, 1992, until January 5, 1993. The Department finds no compelling reasons to deny the request. Accordingly, we are postponing the date of the preliminary determination until not later than January 5, 1993.

This notice is published pursuant to section 733(c)(2) of the Tariff Act of 1930, as amended, and 19 CFR 353.15(d).

Dated: October 15, 1992.

Rolf Th. Lundberg, Jr.,

Acting Assistant Secretary for Import Administration.

[FR Doc. 92-25798 Filed 10-22-92; 8:45 am]

BILLING CODE 3510-DS-M

[A-351-811]

Certain Hot Rolled Lead and Bismuth Carbon Steel Products From Brazil; Correction to Postponement of Preliminary Antidumping Duty Determination

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

EFFECTIVE DATE: October 23, 1992.

FOR FURTHER INFORMATION CONTACT: Cherie Rusnak or Linda L. Pasden, Office of Agreements Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230, telephone (202) 377-3793.

POSTPONEMENT: This is to correct the date of the preliminary determination in this investigation as published in the **Federal Register** on September 4, 1992 (57 FR 40635). The correct date of the preliminary determination is November 9, 1992.

This notice is published pursuant to section 733(c)(2) of the Tariff Act of 1930, as amended, and 19 CFR 353.15(d).

Dated: October 15, 1992.

Rolf Th. Lundberg, Jr.,

Acting Assistant Secretary for Import Administration.

[FR Doc. 92-25797 Filed 10-22-92; 8:45 am]

BILLING CODE 3510-DS-M

[A-570-818, A-412-809]

Postponement of Final Antidumping Duty Determinations of Sales at Less Than Fair Value: Sulfur Dyes, Including Sulfur Vat Dyes, From the People's Republic of China and the United Kingdom

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

EFFECTIVE DATE: October 23, 1992.

FOR FURTHER INFORMATION CONTACT: Shawn Thompson, Office of Antidumping Investigations, Import Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 482-1776.

POSTPONEMENT: On October 2, 1992, Kwong Fat Hong Chemicals, Ltd, Sinochem Shandong Import/Export Corporation, and Sinochem International Chemical Company, Ltd., respondents in the antidumping duty investigation of sulfur dyes, including sulfur vat dyes, from the People's Republic of China (PRC), requested that the Department postpone the final determination in that investigation 60 days in order to ensure that the Department has adequate time to conduct verification and to consider fully all the issues in the case, in accordance with section 735(a)(2)(A) of the Tariff Act of 1930, as amended (the Act) (19 U.S.C. 1673d(a)(2)(A)). In addition, on October 8, 1992, James Robinson Limited, respondent in the antidumping duty investigation of sulfur dyes, including sulfur vat dyes, from the United Kingdom, requested that the Department postpone the final determination in that investigation 30 days in order to consider fully the issues in the case, in accordance with section 735(a)(2)(A) of the Act.

We find no compelling reasons to deny the requests and are, accordingly, postponing the dates of the final determinations until February 1, 1993, for the PRC and until December 31, 1992, for the United Kingdom. 19 CFR 353.20(b)(1).

This notice is published pursuant to section 735(d) of the Act (19 U.S.C. 1673d(d)) and 19 CFR 353.20(b)(2).

Dated: October 16, 1992.

Rolf Th. Lundberg, Jr.,

Acting Assistant Secretary for Import Administration.

[FR Doc. 92-25796 Filed 10-22-92; 8:45 am]

BILLING CODE 3510-DS-M

Minority Business Development Agency

Business Development Center Applications; Nashville, TN

AGENCY: Minority Business Development Agency, Commerce.

ACTION: Notice.

SUMMARY: In accordance with Executive Order 11625, the U.S. Department of Commerce's Minority Business Development Agency (MBDA) is soliciting competitive applications under its Minority Business Development Center (MBDC) program to operate on MBDC for approximately a 3-year

period, subject to Agency priorities, recipient performance, and the availability of funds. Prospective offerors are advised that there is an incumbent MBDC operator now providing these services. This award is contingent upon the incumbent's satisfactory performance. The current operator is required to maintain a satisfactory level of performance during the first three months of the award period. Should the operator's performance not be acceptable, the incumbent's award may be terminated and a new award made on the basis of responses received to this solicitation. The cost of performance for the first budget period (12 months) is $169,125 in Federal funds and a minimum of $29,846 in non-Federal (cost-sharing) contributions. This federal amount includes $4,125 for an annual audit. Cost-sharing contributions may be in the form of cash contributions, client fees, in-kind contributions or combinations thereof. The period of performance will be from April 1, 1993 to March 31, 1994. The MBDC will operate in the Nashville, Tennessee geographic service area.

The award number for this MBDC will be 04-10-93004-01.

The funding instrument for the MBDC will be a cooperative agreement. Competition is open to individuals, non-profit and for-profit organizations, State and local governments, American Indian tribes and educational institutions.

The MBDC program is designed to provide business development services to the minority business community for the establishment and operation of viable minority businesses. To this end, MBDA funds organizations that can identify and coordinate public and private sector resources on behalf of minority individuals and firms; offer a full range of management and technical assistance; and serve as a conduit of information and assistance regarding minority businesses.

Applications will be evaluated initially by regional staff on the following criteria: The experience and capabilities of the firm and its staff in addressing the needs of the business community in general and, specifically, the special needs of minority businesses, individuals and organizations (50 points), the resources available to the firm in providing business development services (10 points); the firm's approach (techniques and methodologies) to performing the work requirements included in the application (20 points); and the firm's estimated cost for providing such assistance (20 points). An application must receive at least 70% of the points assigned to any one evaluation criteria category to be considered programmatically acceptable and responsive. The selection of an application for further processing by MBDA will be made by the Director based on a determination of the application most likely to further the purpose of the MBDC program. The application will then be forwarded to the Department for final processing and approval, if appropriate. The Director will consider past performance of the applicant on previous Federal awards.

MBDC's shall be required to contribute at least 15% of the total project cost through non-Federal contributions. To assist them in this effort, MBDCs may charge client fees for management and technical assistance (M&TA) rendered. Based on a standard rate of $50 per hour, MBDCs will charge client fees at 20% of the total cost for firms with gross sales of $500,000 or less, and 35% of the total cost for firms with gross sales of over $500,000. False information on the application can be grounds for denying or terminating funds.

MBDCs performing satisfactorily may continue to operate after the initial competitive year for up to 2 additional budget periods. MBDCs with year-to-date "commendable" and "excellent" performance ratings may continue to be funded for up to 30 or 4 additional budget periods, respectively. Under no circumstances shall an MBDC be funded for more than 5 consecutive budget periods without competition. Periodic reviews culminating in year-to-date quantitative and qualitative evaluations will be conducted to determine if funding for the project should continue. Continued funding will be at the discretion of MBDA based on such factors as an MBDC's performance, the availability of funds and Agency priorities.

Awards under this program shall be subject to all Federal and Departmental regulations, policies, and procedures applicable to Federal assistance awards.

In accordance with OMB Circular A-129 "Managing Federal Credit Programs," applicants who have an outstanding account receivable with the Federal Government may not be considered for funding until these debts have been paid or arrangements, satisfactory to the Department of Commerce, are made to pay the debt.

Applicants are subject to Governmental Debarment and Suspension (Nonprocurement) requirements as stated in 15 CFR part 26.

The Departmental Grants Officer may terminate any grant/cooperative agreement in whole or in part at any time before the date of completion whenever it is determined that the MBDC has failed to comply with the conditions of the grant/cooperative agreement. Examples of some of the conditions which can cause termination are failure to meet cost-sharing requirements; unsatisfactory performance of MBDC work requirements; and reporting inaccurate or inflated claims of client assistance or client certification. Such inaccurate or inflated claims may be deemed illegal and punishable by law.

Notification must be provided that all non-profit and for-profit applicants are subject to a name check review process. Name checks are intended to reveal if any key individuals associated with the applicant have been convicted of or are presently facing, criminal charges such as fraud, theft, perjury, or other matters which significantly reflect on the applicant's management honesty or financial integrity.

On November 18, 1988, Congress enacted the Drug-Free Workplace Act of 1988 (Pub. L. 100-690, title V, subtitle D). The statute requires contractors and grantees of Federal agencies to certify that they will provide a drug-free workplace. Pursuant to these requirements, the applicable certification form must be completed by each applicant as a pre-condition for receiving Federal grant or cooperative agreement awards.

15 CFR, part 28, is applicable and prohibits recipients of Federal contracts, grants, and cooperative agreements from using appropriated funds for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with a specific contract, grant or cooperative agreement. Form CD-511, "Certifications Regarding Debarment, Suspension and Other Responsibility Matters; Drug-Free Workplace Requirements and Lobbying" and, when applicable, the SF-LLL, "Disclosure of Lobbying Activities," are required.

CLOSING DATE: The closing date for submitting an application is November 25, 1992. Applications must be postmarked on or before November 25, 1992. Proposals will be reviewed by the Atlanta Regional Office. The mailing address for submission of RFA responses is: U.S. Department of Commerce, Atlanta Regional Office, Minority Business Development Agency, 401 West Peachtree Street, NW., suite 1715, Atlanta, Georgia 30308-3516.

A pre-application conference to assist all interested applicants will be held on November 10, 1992, 9 a.m. at the

following address: U.S. Department of Commerce, Minority Business Development Agency, 401 West Peachtree Street, NW., room 1715, Atlanta, Georgia 30308-3516.

SUPPLEMENTARY INFORMATION: Anticipated processing time of this award is 120 days. Executive Order 12372, "Intergovernmental Review of Federal Programs," is not applicable to this program. To order a Request for Application (RFA) and to receive additional information, contact: Carlton L. Eccles, Regional Director of the Atlanta Regional Office on (404) 730-3300 or U.S. Department of Commerce, Minority Business Development Agency, 401 West Peachtree Street, NW., Room 1715, Atlanta, Georgia 30308-3516.

11.800 Minority Business Development (Catalog of Federal Domestic Assistance)

Dated: October 15, 1992.

Carlton L. Eccles,

Regional Director, Atlanta Regional Office.

[FR Doc. 92-25713 Filed 10-22-92; 8:45 am]

BILLING CODE 3510-21-M

National Oceanic and Atmospheric Administration

Public Meeting on the Site Selection for the Mullica River/Great Bay National Estuarine Research Reserve

AGENCY: Sanctuaries and Reserves Division, Office of Ocean and Coastal Resource Management, National Ocean Service, National Oceanic and Atmospheric Administration, Commerce.

ACTION: Public meeting notice.

SUMMARY: Notice is hereby given that the State of New Jersey Department of Environmental Protection (DEP) in conjunction with Rutgers University, Institute of Marine and Coastal Sciences, will hold a public meeting to present and discuss the sites selected around the Mullica River-Great Bay system for potential nomination as a National Estuarine Research Reserve. The purpose of the meeting is to receive comments from interested parties (e.g., affected landowners, local governments, and other state and Federal agencies) and other parties who are interested in the areas being considered as a potential national estuarine research reserve. As part of the procedures leading to site selection, the state must have a meeting in the vicinity of the proposed site. This notice is given pursuant to 15 CFR 921.11(d).

DATES: The public meeting will take place from 7 p.m.-9 p.m. on Monday, October 26, 1992, at the Little Egg Harbor Township Municipal Building, Town Hall, 7 Gifford Lane, Little Egg Harbor, New Jersey.

FOR FURTHER INFORMATION CONTACT: Ms. Annie Hillary, Sanctuaries and Reserves Division, Office of Ocean and Coastal Resource Management, NOAA/NOS, 1825 Connecticut Avenue, NW., Washington, DC 20235 (202) 606-4122 or Steve Whitney, DEP, Division of Coastal Resources, (609) 984-3874 or Mike De Luca, Institute for Marine Biology and Coastal Sciences, (908) 932-0578.

(Federal Domestic Assistance Catalog Number 11.420 (Coastal Zone Management) Estuarine Sanctuaries)

Dated: October 19, 1992.

Frank Maloney,

Deputy Assistant Administrator for Ocean Services and Coastal Zone Management.

[FR Doc. 92-25698 Filed 10-22-92; 8:45 am]

BILLING CODE 3410-08-M

Marine Mammals

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

ACTION: Issuance of Scientific Research Permit (P120D).

On May 20, 1992, notice was published in the **Federal Register** (57 FR 21397) that an application had been filed by Dr. Warren Zapol, Department of Anesthesia, Massachusetts General Hospital, Harvard Medical School, Boston, MA 02114, for a Permit to take up to 110 Weddell seals (*Leptonychotes weddelli*) over a 2-year period, by harassment during capture, tagging and sampling operations, and to lethally take of 20 of these animals. A Permit was issued for the above taking with the exception that the intentional lethal take of seals is not authorized until further review of this portion of the research proposal determines that such research is *bona fide* and humane.

Notice is hereby given that on October 16, 1992, as authorized by the provisions of the Marine Mammal Protection Act of 1972 (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 Permit and supporting documentation are available for review, by appointment, in the Permits Division, Office of Protected Resources, National Marine Fisheries Service, 1335 East-West Hwy., room 7324, Silver Spring, MD 20910 (301/713-2289); and

Director, Northeast Region, National Marine Fisheries Service, One Blackburn Drive, Gloucester, MA 01930 (508/281-9200)

Dated: October 16, 1992.

Michael F. Tillman,

Deputy Assistant Administrator for Fisheries.

[FR Doc. 92-25709 Filed 10-22-92; 8:45 am]

BILLING CODE 3510-22-M

COMPETITIVENESS POLICY COUNCIL

Meetings

AGENCY: Competitiveness Policy Council.

ACTION: Notice of forthcoming meetings.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92-463, as amended, the Competitiveness Policy Council announces several forthcoming meetings.

DATES: October 28, 1992; and November 6, 1992; 8:30 a.m. to 5:30 p.m.

ADDRESSES: Eighth Floor Conference Center, 11 Dupont Circle, NW., Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: Howard Rosen, Executive Director, Competitiveness Policy Council, Suite 650, 11 Dupont Circle, NW., Washington, DC 20036, (202) 387-9017.

SUPPLEMENTARY INFORMATION: The Competitiveness Policy Council (CPC) was established by the Competitiveness Policy Council Act, as contained in the Trade and Competitiveness Act of 1988, Public Law 100-418, sections 5201-5210, as amended by the Customs and Trade Act of 1990, Public Law 101-382, section 133. The CPC is composed of 12 members and is to advise the President and Congress on matters concerning competitiveness of the U.S. economy. The Council's chairman, Dr. C. Fred Bergsten, will chair each meeting.

Each meeting will be open to the public subject to the seating capacity of the room. Visitors will be requested to sign a visitors register.

Type of Meeting: Open.

Agenda: The Chairman will open each meeting with a report on developments related to the activities of the Council. The work of each of the eight subcouncils will be discussed. The subcouncils include: capital formation, corporate governance, critical technologies, education, manufacturing, public infrastructure, trade policy, and training. The Council will also consider additional business as suggested by its members.

Dated: October 19, 1992.

C. Fred Bergsten,

Chairman, Competitiveness Policy Council.

[FR Doc. 92-25806 Filed 10-22-92; 8:45 am]

BILLING CODE 6820-11-M

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

Procurement List; Proposed Additions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Proposed additions to procurement list.

SUMMARY: The Committee has received proposals to add to the Procurement List commodities and services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

COMMENTS MUST BE RECEIVED ON OR BEFORE: November 23, 1992.

ADDRESSES: Committee for Purchase from the Blind and Other Severely Handicapped, Crystal Square 3, suite 403, 1735 Jefferson Davis Highway, Arlington, Virginia 22202-3461.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman (703) 557-1145.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2) and 41 CFR 51-2.3. Its purposes is to provide interested persons an opportunity to submit comments on the possible impact of the proposed actions.

If the Committee approves the proposed additions, all entities of the Federal Government (except as otherwise indicated) will be required to procure the commodities and services listed below from nonprofit agencies employing persons who are blind or have other severe disabilities.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the commodities and services to the Government.

2. The action does not appear to have a severe economic impact on current contractors for the commodities and services.

3. The action will result in authorizing small entities to furnish the commodities and services to the Government.

4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46-48c) in connection with the commodities and services proposed for addition to the Procurement List.

Comments on this certification are invited. Commenters should identify the statement(s) underlying the certification on which they are providing additional information.

It is proposed to add the following commodities and services to the Procurement List:

Commodities

Tool Kit, Plumber
5180-00-545-8647
Nonprofit Agency: Casco Area Workshop, Inc., Harrisonville, Missouri

Splint, Wood
6510-00-372-1200
Nonprofit Agency: Labor and Employment Opportunities, Inc., Amarillo, Texas

Services

Administrative Services, Federal Supply Service, Toll Acquisition Division I (GFEP-CO), Arlington, Virginia
Nonprofit Agency: Sheltered Occupational Center of Northern Virginia, Arlington, Virginia

Food Service Attendant, Scott Air Force Base, Illinois
Nonprofit Agency: St. Clair Association Vocational Enterprises, Inc., Belleville, Illinois

Janitorial/Custodial, Federal Building (Floors 1 thru 7), 230 North First Street, Phoenix, Arizona
Nonprofit Agency: Tempe Center for Habilitation, Inc., Tempe, Arizona

Janitorial/Custodial, O'Hare Air Reserve Force Facility, Building #4, Chicago, Illinois
Nonprofit Agency: Jewish Vocational Service and Employment Center, Chicago, Illinois

Mailroom Operation, U.S. Army Corps of Engineers, Los Angeles District, Los Angeles, California
Nonprofit Agency: Elwyn, Inc., Fountain Valley, California

Beverly L. Milkman,
Executive Director.

[FR Doc. 92-25780 Filed 10-22-92; 8:45 am]

BILLING CODE 6820-33-M

Procurement List; Proposed Additions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Proposed additions to procurement list.

SUMMARY: The Committee has received a proposal to add to the Procurement List commodities to be furnished by a nonprofit agency employing persons who are blind or have other severe disabilities.

DATES: Comments must be received on or before November 23, 1992.

ADDRESSES: Committee for Purchase from the Blind and Other Severely Handicapped, Crystal Square 3, suite 403, 1735 Jefferson Davis Highway, Arlington, Virginia 22202-3461.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman, (703) 557-1145.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2) and 41 CFR 51-2.3. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed action. If the Committee approves the proposed addition, all entities of the Federal Government (except as otherwise indicated) will be required to procure the commodities listed below from a nonprofit agency employing individuals who are blind or have other severe disabilities.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organization that will furnish the commodities to the Government.

2. The action will result in authorizing a small entity to furnish the commodities to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46-48c) in connection with the commodities proposed for addition to the Procurement List.

Comments on this certification are invited. Commenters should identify the statement(s) underlying the certification on which they are providing additional information.

It is proposed to add the following commodities to the Procurement List:

Cartridge, Toner, Laser Printer, Remanufactured
6850-00-NSH-0001 (EP-CX)
6850-00-NSH-0002 (EPS-SX)
6850-00-NSH-0003 (EPL-LX)
Nonprofit Agency: Rappahannock Goodwill Industries, Inc., Fredericksburg, Virginia.

Beverly L. Milkman,
Executive Director.

[FR Doc. 92-25778 Filed 10-22-92; 8:45 am]

BILLING CODE 6820-33-M

Procurement List, Additions and Deletions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Additions to and deletions from Procurement List.

SUMMARY: This action adds to the Procurement List commodities and services to be furnished by nonprofit agencies employing persons who are blind or have severe disabilities, and deletes from the Procurement List commodities and services previously furnished by such agencies.

EFFECTIVE DATE: November 23, 1992.

ADDRESSES: Committee for Purchase from the Blind and Other Severely Handicapped, Crystal Square 3, suite 403, 1735 Jefferson Davis Highway, Arlington, Virginia 22202-3461.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman, (703) 557-1145.

SUPPLEMENTARY INFORMATION: On June 12, 19, July 24, 31, August 21, 28 and September 4, 1992, the Committee for Purchase from the Blind and Other Severely Handicapped published notices (57 FR 25023, 27440, 32976, 33943, 37958, 39190 and 40644) of proposed additions to and deletions from the Procurement List:

Additions

After consideration of the material presented to it concerning capability of qualified nonprofit agencies to provide the commodities and services, fair market price, and impact of the additions on the current or most recent contractors, the Committee has determined that the commodities and services listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46-48c and 41 CFR 51-2.4.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the commodities and services to the Government.

2. The action will not have a severe economic impact on current contractors for the commodities and services.

3. The action will result in authorizing small entities to furnish the commodities and services to the Government.

4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46-48c) in connection with the commodities and services proposed for addition to the Procurement List.

Accordingly, the following commodities and services are hereby added to the Procurement List:

Commodities

Floorboard, Wood
2510-01-063-3893
Handle, Litter, Pole
6530-01-247-7157

Services

Administrative Service, Automated Dispatch System, Hill Air Force Base, Utah
Janitorial/Custodial, Federal Building (Basement & 8th Floor), 230 North First Avenue, Phoenix, Arizona
Janitorial/Custodial, Norris Cotton Federal Building, 275 Chestnut Street, Manchester, New Hampshire
Janitorial/Custodial, Marine Corps Air Station Commissary, New River, North Carolina
Janitorial/Custodial, Little Mountain, Little Mountain, Utah

This action does not affect contracts awarded prior to the effective date of this addition or options exercised under those contracts.

Deletions

After consideration of the relevant matter presented, the Committee has determined that the commodities and services listed below are no longer suitable for procurement by the Federal Government under 41 U.S.C. 46-48c and 41 CFR 51-2-4.

Accordingly, the following commodities and services are hereby deleted from the Procurement List:

Commodities

Coat, Women's Pajama
6532-01-222-6565
6532-01-222-3116
6532-01-215-3199
6532-01-215-8093
Trousers, Women's Pajama
6532-01-226-2961
6532-01-226-2962
6532-01-216-2425
6532-01-216-2426

Services

Commissary Shelf Stocking, Naval Supply Center, Commissary Branch Store, Athens, Georgia
Computer Tape Verification, Tinker Air Force Base, Oklahoma

Beverly L. Milkman,

Executive Director.

[FR Doc. 92-25779 Filed 10-22-92; 8:45 am]

BILLING CODE 6820-33-M

CONSUMER PRODUCT SAFETY COMMISSION

[CPSC Docket No. 93-C0001]

E. Davis, Inc., a Corporation; Provisional Acceptance of a Settlement Agreement and Order

AGENCY: Consumer Product Safety Commission.

ACTION: Provisional acceptance of a settlement agreement under the Consumer Product Safety Act.

SUMMARY: It is the policy of the Commission to publish settlements which it provisionally accepts under the Consumer Product Safety Act in the Federal Register in accordance with the terms of 16 CFR 1118.20(e). Published below is a provisionally-accepted Settlement Agreement with E. Davis, Inc., a corporation.

DATES: Any interested person may ask the Commission not to accept this agreement or otherwise comment on its contents by filing a written request with the Office of the Secretary by November 9, 1992.

ADDRESSES: Persons wishing to comment on this Settlement Agreement should send written comments to the Comment 93-C0001, Office of the Secretary, Consumer Product Safety Commission, Washington, DC 20207.

FOR FURTHER INFORMATION CONTACT: William J. Moore, Jr., Trial Attorney, Office of Compliance and Enforcement, Consumer Product Safety Commission, Washington, DC 20207; telephone (301) 504-0626.

Dated: October 20, 1992.

Sheldon D. Butts,

Deputy Secretary.

Settlement Agreement and Order

1. This Settlement Agreement and Order, entered into between E. Davis, Inc., a corporation, (hereinafter, "E. Davis"), and the staff of the Consumer Product Safety Commission (hereinafter, "staff"), is a compromise resolution of the matter described herein, without a hearing or determination of issues of law and fact.

I. The Parties

2. The "staff" is the staff of Consumer Product Safety Commission (hereinafter, "Commission"), which is an independent federal regulatory agency of the United States of America, established by Congress pursuant to section 4 of the Consumer Product Safety Act (CPSA), as amended, 15 U.S.C. 2053.

3. E. Davis is a corporation organized and existing under the laws of the State of New York, with its principal corporate offices located at 7 Turner Place, Piscataway, New Jersey.

II. Jurisdiction

4. E. Davis has distributed an aerosol product, "Super String" party streamers (hereinafter, "Super String"). Super String is a "consumer product" within

the meaning of section 3(a)(1) of the CPSA, 15 U.S.C. 2052 (a)(1).

5. E. Davis imported and distributed the Super String for sale to consumers in the United States. E. Davis is a "manufacturer" (by virtue of being an importer) and a "distributor" of a "consumer product" which is "distributed in commerce," as those terms are defined in sections 3(a)(1), (4), (5) and (11) of the CPSA, 15 U.S.C. 2052 (a)(1), (4), (5) and (11).

III. The Product

6. E. Davis imported and distributed several million cans of Super String from 1988 through 1989.

IV. Staff Allegations

7. The staff alleges that E. Davis failed to meet its obligations to report information to the Commission under section 15(b) of the CPSA, 15 U.S.C. 2064(b). The staff alleges that certain cans of the Super String E. Davis distributed during 1988 and 1989 contained a flammable propellant. The staff further alleges that the use of Super String by children, and in the presence of children, at birthday parties and other celebrations where candles may be in use, was reasonably forseeable and extremely dangerous. The staff also alleges that, in 1988 and 1989, E. Davis received complaints alleging burn injuries to children and adults as a result of Super String being used at parties where candles were in use.

8. The staff contends that E. Davis had information which reasonably supported the conclusion that its Super String contained a defect which could create a substantial product hazard and that E. Davis failed to report that information to the Commission in a timely manner as required by section 15(b) of the CPSA, 15 U.S.C. 2064(b).

V. E. Davis' Response

9. E. Davis denies all of the Commission's allegations. Specifically, E. Davis denies that its distribution of Super String triggered a reporting requirement or that it failed to meet its alleged reporting obligations.

10. E. Davis also denies that use of Super String by children or in the presence of children at parties where candles may be in use was reasonably foreseeable. Indeed, E. Davis alleges that such a use would have constituted product misuse and cites the prominent and boldly written warning on the cans. The warning states:

CAUTION: DO NOT SPRAY AT OPEN FLAME OR NEAR FIRE OR WHILE SMOKING. DO NOT SPRAY ON HOT SURFACES OR SURFACES THAT MAY BECOME TOO HOT SUCH AS LIGHT BULBS AND VINYL UPHOLSTERY * * * * Keep out of reach of children except under adult supervision.

E. Davis alleges that it did not receive direct complaints from consumers alleging burn injuries until the Commission forwarded a letter to E. Davis in December of 1988. E. Davis denies that any of the facts that came to its attention supported the conclusion that the product contained a defect which it should have reported to the Commission.

12. Moreover, if such a risk did exist, E. Davis denies that it had a reporting obligation to the Commission. Rather, E. Davis had understood that the Commission was adequately informed about any possible risk. In fact, E. Davis alleges that notice of facts relied upon by the Commission was derived from the Commission itself.

VI. Agreement of the Parties

13. E. Davis and the staff agree that the Commission has jurisdiction in this matter for purposes of entry and enforcement of this Settlement Agreement Order.

14. E. Davis agrees to pay the Commission $225,000 within 30 days after service of the Final Order upon E. Davis. This payment is made in settlement of all claims and allegations of the staff and the Commission (asserted and unasserted) with regard to the flammability risk posed by the propellant in the products described in paragraph 6 above.

15. Upon provisional acceptance of this Settlement Agreement and Order by the Commission, this Settlement Agreement and Order shall be place on the public record and shall be published in the **Federal Register** in accordance with the procedure set forth in 16 CFR 1118.20(e). If the Commission does not receive any written request not to accept the Settlement Agreement within 15 days, the Settlement Agreement and Order will be deemed finally accepted on the 16th day after the date it is published in the **Federal Register**, in accordance with 16 CFR 1118.20(f).

16. Upon final acceptance of this Settlement Agreement by the Commission, E. Davis knowingly, voluntarily and completely waives any rights it may have (1) to an administrative or judicial hearing with respect to the staff allegations cited herein, (2) to judicial review or other challenge or contest of the validity of the Commission's action with regard to the staff allegations cited herein, (3) to a determination by the Commission as to whether a violation of section 15(b) of the CPSA, 15 U.S.C. 2064 (b), has occurred, and (4) to a statement of findings of fact and conclusion of law with regard to the staff claims cited herein.

17. Upon final acceptance of this Settlement Agreement by the Commission, the Commission will issue a press release be negotiated by the parties. If the parties cannot agree on the wording of a press release, the release may be issued pursuant to section 6 of the CPSA, 15 U.S.C. 2055.

18. This Settlement Agreement is binding upon the Commission and E. Davis, and the assigns or successors of E. Davis, but does not bind or limit others not party to this Settlement Agreement.

19. The parties further agree that the incorporated Order be issued under the CPSA, 15 U.S.C. 2051 *et seq.*, and that a violation of the Order will subject E. Davis to appropriate legal action.

20. No agreement, understanding, representation, or interpretation not contained in this Settlement Agreement and Order may be used to vary or to contradict its terms.

E. Davis, Inc.

Dated: June 18, 1992.

Warren J. Bronsnick,

President.

Dated: July 6, 1992.

The Consumer Product Safety Commission.

David Schmeltzer,

Associate Executive Director, Office of Compliance and Enforcement.

Alan H. Schoem,

Director, Division of Administrative Litigation, Office of Compliance and Enforcement.

William J. Moore, Jr.,

Trial Attorney, Division of Administrative Litigation, Office of Compliance and Enforcement.

Order

Upon consideration of the Settlement Agreement of the parties, it is hereby

Ordered, That E. Davis, Inc. shall pay, within 30 days of final acceptance of this Settlement Agreement and service of this order, a sum in the amount of $225,000 to the Consumer Product Safety Commission.

Provisionally accepted on the 20th day of October, 1992.

By Order of the Commission.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 92-25768 Filed 10-22-92; 8:45 am]

BILLING CODE 6355-01-M

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Science Board Task Force on Submarine Service Life; Meeting Cancellation

ACTION: Cancellation of meeting.

SUMMARY: The meeting notice for the Defense Science Board Task Force on Submarine Service Life scheduled for October 19 & 20, 1992, as published in the **Federal Register** (Vol. 57, No. 190, Page 45039, Wednesday, September 30, 1992, FR Doc. 92-23622) has been cancelled.

Dated: October 20, 1992.

Linda M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 92-25725 Filed 10-22-92; 8:45 am]

BILLING CODE 3810-01-M

DoD Advisory Panel on Streamlining and Codifying Acquisition Laws

AGENCY: Defense Systems Management College, DoD.

ACTION: Notice of meeting.

SUMMARY: Open to the public on November 17 and 18, 1992, starting at 8:30 a.m. at the Defense Systems Management College in Building 226, SR 3/4 on Fort Belvoir, VA. The panel will hear presentations and recommendations by the various panel working groups on the statutes they have reviewed to date.

For further information contact Linda Snellings at (703) 355-2665.

Dated: October 19, 1992.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 92-25697 Filed 10-12-92; 8:45 am]

BILLING CODE 3810-01-M

Department of the Air Force

USAF Scientific Advisory Board Meeting

The USAF Scientific Advisory Board's Committee on Technology to Support Force Projection: Global Reach-Global Power will meet on 17-19 November 1992, at the ANSER Corporation, Crystal Gateway 3, 1215 Jefferson Davis Highway, Arlington, VA from 8 a.m. to 5 p.m.

The purpose of this meeting is to brief Air Force PEO's on Summer Study 92 report on Global Reach-Global Power.

The meeting will be closed to the public in accordance with section 552b(c) of title 5, United States Code, specifically subparagraphs (1) and (4) thereof.

For further information, contact the Scientific Advisory Board Secretariat at (703) 697-4811.

Patsy J. Conner,

Air Force Register, Liaison Officer.

[FR Doc. 92-25791 Filed 10-22-92; 8:45 am]

BILLING CODE 3910-01-M

USAF Scientific Advisory Board Meeting

The USAF Scientific Advisory Board's Committee on Technology to Support Force Projection: Global Reach—Global Power will meet on 19-20 November 1992, at Langley AFB, VA from 8 a.m. to 5 p.m.

The purpose of this meeting is to brief Air Combat Command on Summer Study 92 report on Global Reach-Global Power.

The meeting will be closed to the public in accordance with section 552b(c) of title 5, United States Code, specifically subparagraphs (1) and (4) thereof.

For further information, contact the Scientific Advisory Board Secretariat at (703) 697-4811.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 92-25792 Filed 10-22-92; 8:45 am]

BILLING CODE 3910-01-M

DEPARTMENT OF EDUCATION

Advisory Committee on Student Financial Assistance; Meeting

AGENCY: Advisory Committee on Student Financial Assistance, Education.

ACTION: Notice of upcoming meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming hearing sponsored by the Advisory Committee on Student Financial Assistance. 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.

DATE AND TIME: Thursday, November 12, 1992, beginning at 9 a.m. and ending at 5 p.m.

ADDRESSES: Red Lion Hotel, Seattle Airport, 18740 Pacific Highway, South, Seattle, Washington 98188.

FOR FURTHER INFORMATION CONTACT: Dr. Brian K. Fitzgerald, Staff Director, Advisory Committee on Student Financial Assistance, room 4600, ROB-3, 7th & D Streets, SW., Washington, DC 20202-7582 (202) 708-7439.

SUPPLEMENTARY INFORMATION: The Advisory Committee on Student Financial Assistance is established under section 491 of the Higher Education Act of 1965 as amended by Public Law 100-50 (20 U.S.C. 1098). The Advisory Committee is established to provide advice and counsel to the Congress and the Secretary of Education on student financial aid matters, including providing technical expertise with regard to systems of need analysis and application forms, making recommendations that will result in the maintenance of access to postsecondary education for low- and middle-income students, and conducting a study of institutional lending in the Stafford Student Loan Program. The Congress has also directed the Advisory Committee to assist with a series of special assessments and produce an in-depth study of student loan simplification.

The Advisory Committee will meet in Seattle, Washington on November 12, 1992, from 9 a.m. to 5 p.m.

The proposed agenda includes discussion sessions on (a) the paperwork burden experienced by financial aid officers within the current structure of the loan program; (b) simplification and standardization of forms, procedures and other aspects of guaranty operations; (c) simplification of the bank repayment process; and (d) efficient utilization of loan programs. Those who cannot attend the hearing are invited to submit written testimony which will be presented to the Advisory Committee members and will become a part of the Committee's official records.

The intent of the Seattle hearing is to involve as many witnesses from the western region of the United States who are involved in the student loan program to share their views on the study.

Records are kept of all Committee proceedings, and are available for public inspection at the Office of the Advisory Committee on Student Financial Assistance, room 4600, 7th and D Streets, SW., Washington, DC from the hours of 9 a.m. to 5:30 p.m., weekdays, except Federal holidays.

Dated: October 19, 1992.

Brian K. Fitzgerald,

Staff Director, Advisory Committee on Student Financial Assistance.

[FR Doc. 92-25724 Filed 10-22-92; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Floodplain Statement of Findings for Site Characterization Activities at Yucca Mountain, NV

AGENCY: Department of Energy, Office of Civilian Radioactive Waste Management.

ACTION: Statement of findings.

SUMMARY: This Statement of Findings (SOF) has been prepared in accordance with 10 CFR part 1022 to support a DOE decision to locate portions of the Exploratory Studies Facility (ESF) within the 100-year floodplain at the Yucca Mountain, Nevada site. The ESF will support sub-surface activities planned for characterizing the site for a potential geologic repository. An October 1, 1991, SOF addressed the surface-based investigations that are being undertaken to characterize this site. This SOF summarizes potential impacts of the ESF and the potential cumulative impacts of activities related to the surface-based investigations and the sub-surface ESF activities.

This SOF has been prepared pursuant to 10 CFR part 1022, "Compliance with Floodplain/Wetlands Environmental Review Requirements." In accordance with this regulation, a Floodplain/Wetlands Notice of Involvement was published in the **Federal Register** on February 9, 1989 (54 FR 6318). At that time, the proposed action consisted of conducting surface-based investigations and constructing an underground facility, whose design has subsequently been modified, for sub-surface investigations. A floodplain assessment for potential floodplain impacts from surface-based investigation activities was prepared in August 1991 and was followed by the floodplain SOF published in the **Federal Register** (56 FR 49765) on October 1, 1991. A supplemental floodplain assessment has been prepared for the ESF and associated facilities and cumulative impacts of the surface-based activities and the ESF.

For the dry washes located near the ESF facility, a United States Geological Survey study of the probable characteristics of the 100-year, 500-year, and regional maximum floods on the Nevada Test Site was used to assess impacts on the 100-year floodplain. ESF activities that will occur in the 100-year floodplain are limited to the excavated materials conveyer belt (0.25 acres), the borrow area (3.5 acres), and new access road construction (2.5 acres). The proposed action has no practicable alternatives; it is not expected to cause significant adverse effects to floodplains, people, or property, and has been designed to avoid or minimize potential harm to and within the floodplain.

For copies of this Floodplain Assessment and/or location map or for further information on this specific project, contact: Ms. Wendy R. Dixon, Yucca Mountain Site Characterization Project Office, U.S. Department of Energy Nevada Field Office, P.O. Box 98518, Las Vegas, Nevada 89193–8513, (702) 794–7947, Fax: (702) 794–7907.

For information on general DOE floodplain/wetlands environmental review requirement, contact: Ms. Carol M. Borgstrom, Office of National Environmental Policy Act (NEPA) Oversight, EH–25, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–4600 or (800) 472–2756, Fax: (202) 586–7031.

SUPPLEMENTARY INFORMATION:

I. Project Description

In accordance with the Nuclear Waste Policy Act of 1982, as amended (NWPAA), Yucca Mountain, Nevada is being studied to determine its suitability as the first underground repository for the permanent disposal of the Nation's commercial spent fuel and high-level radioactive waste. Before a decision is made to locate the repository at Yucca Mountain, the geology and hydrology of the site must be investigated thoroughly to determine if the site is suitable to safely isolate the waste from the surrounding environment.

Investigations of the Yucca Mountain site will consist of both surface-based activities and sub-surface activities in an Exploratory Studies Facility (ESF). A Statement of Findings (SOF) concerning surface-based investigation activities, (e.g. borehole drilling, construction of access roads and graded pads for deep drilling, excavation of trenches, and other minor surface disturbances) was published October 1, 1991. Information contained in the current SOF addresses the impacts of the ESF and associated facilities as well as the cumulative effects from surface-based investigations and sub-surface ESF activities. Included with the ESF are underground access ramps, drifts, ramp portals, conveyer belts, an excavated rock stockpile, topsoil stockpile, powerline, water distribution system, septic tanks and leach fields, waste water disposal system, surface support facilities and structures, and (possibly) a vertical entry shaft. Some of these facilities may be located in or near dry washes. These dry washes and bordering areas were designated as areas of probable inundation in a United States Geological Survey study of the probable characteristics of the 100-year, 500-year, and regional maximum floods on the Nevada Test Site.

For the ESF support facilities, new access roads are to be located in approximately 2.5 acres of areas of probable inundation due to runoff from a 100-year storm event. The excavated materials conveyer belt will affect less than 0.25 acres of areas of probable inundation. The borrow area located in the bottom of Drillhole Wash will be located in approximately 3.5 acres of an area of inundation from a 100-year storm event. Therefore, a total of 6 acres of the 100-year floodplain are estimated to be disturbed from the ESF activities.

Surface-based investigation support facilities proposed for construction in or near dry washes include approximately 10 new borehole drill pads, a limited number of small trench excavations, and approximately 8 miles of dirt and gravel access roads. A total of 74 acres are estimated to be disturbed from surface-based investigations, as identified in the August 1991 Floodplain Assessment. Therefore, the total cumulative floodplain area affected by surface and sub-surface activities is 80 acres.

II. Floodplain Impacts

The base floodplain considered in this SOF is the 100-year floodplain. Flood Insurance Rate Maps and Flood Hazard Boundary Maps are not available for Yucca Mountain and vicinity. The delineation of the 100-year and 500-year floodplains was based on available USGS and Bureau of Reclamation reports.

The 500-year floodplain was considered to be the critical-action floodplain. Critical-action is defined in the § 1022.4 of the floodplain regulations as any activity for which even a slight chance of flooding would be too great, such as storage of highly volatile, toxic, or water-reactive materials. The critical action floodplain was considered for the ESF surface support facilities located on the north and south portal pads because petroleum, oil, and lubricants will be stored for use; both the north and south portal pads are located above the critical action floodplain.

Sub-surface based investigations will involve the construction of access roads, surface support facilities, utility services, excavation of an aggregate borrow area, and underground access ramps. During construction, some vegetation will be lost and surface soils will be disturbed; however, siltation is not expected to be much above that which is normal, and impact to vegetation and wildlife is not expected to be significant. The slight disturbances attributable to the sub-surface based investigations proposed in the floodplain area are not expected to result in any significant effects on lives and property downstream.

A survey performed by the Desert Research Institute has identified two sites in the floodplain that contain cultural resources. Activities in these areas will proceed under provisions of a Programmatic Agreement between the DOE and the Advisory Council on Historic Preservation.

All activities will conform with applicable state floodplain protection standards.

III. Alternatives

The proposed action, development of the ESF, is necessary to develop information to complete site characterization as required by NWPAA. The proposed ESF location, configuration, and method of construction were selected based on a comparative evaluation of ESF-repository design options that identified 34 ESF-repository alternatives. This evaluation included potential impacts from flood events as one of the evaluation criteria. The proposed locations, configurations, and methods of construction were compared and ranked to determine the best alternative. The current choice was ranked as the best option based on the total set of evaluation criteria considered.

If preactivity site surveys reveal that the activities may adversely affect the floodplain, alternative locations for specific activities will be considered. However, there may be situations where alternative locations may be unsuitable due to conflicts with other resources; those situations will be evaluated on a location-by-location basis and the area that would create the least adverse impact, while enhancing long-term ecological stability, will be selected.

While the proposed action alternative is not expected to cause any significant adverse effects to the floodplain, people, or property, the potential for adverse impacts will be minimized by ensuring that mitigation measures, as described below, are undertaken.

IV. Mitigation

As required in § 1022.12(a)(3) of the floodplains regulation, DOE has adopted a program to mitigate the potential adverse effects of activities occurring in the floodplain. Site-specific mitigation measures based on the findings from pre-activity surveys of individual locations will be incorporated into the design of activity locations. Mitigation measures such as construction of diversion channels, rip-rap, and berms will be incorporated into facility designs, when appropriate. Before clearing undisturbed land, installing new facilities or equipment, or performing experiments in a previously untested area, DOE will review the proposed activity to ensure that it conforms with environmental compliance requirements, land access requirements, and environmental monitoring and mitigation program requirements. Approval will not be granted unless (1) the pre-activity survey indicates that the proposed work will not significantly affect biological or archaeological resources; (2) it can be determined that the work is not expected to conflict with commitments to environmental safeguards set forth in the Environmental Monitoring and Mitigation Plan; and (3) the land access and environmental compliance reviews verify that all applicable regulations have been satisfied.

Additionally, reclamation guidelines have been developed in conjunction with DOE's Reclamation Program Plan and Reclamation Implementation Plan, which discusses DOE policy for reclaiming disturbed areas and describes how reclamation practices will be implemented at the Yucca Mountain site. The reclamation guidelines include (1) procedures for site clearance, topsoil salvage, erosion control, drainage control, recontouring, revegetation, and road siting, construction, and maintenance; and (2) measures designed to minimize impacts on the floodplain and mitigate effects associated with construction activities in the floodplain.

V. Determination

The benefits resulting from locating some of the proposed surface and ESF sub-surface based site investigation activities in the 100-year floodplain at the Yucca Mountain site outweigh potential adverse environmental impacts on the floodplain. Alternatives have been reviewed, environmental impacts have been evaluated, and comments received on the Yucca Mountain Site Characterization Plan and Floodplain Notice of Involvement (54 FR 6318) have been considered. The proposed action has no practicable alternatives; it is not expected to cause significant adverse effects to floodplains, people, or property and has been designed to avoid or minimize harm to and within the floodplain.

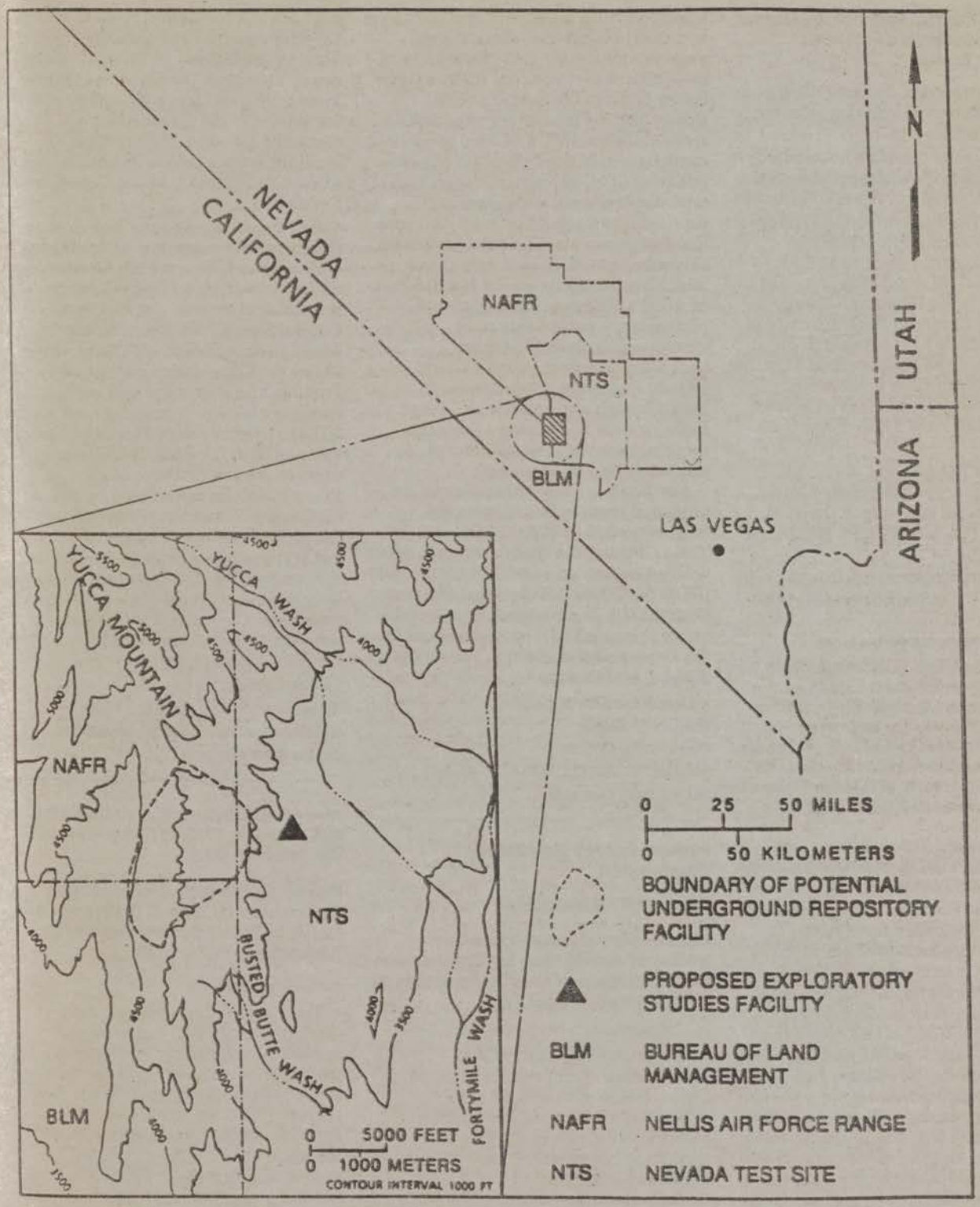
DOE shall endeavor to allow at least 15 days for public review after publication of this Statement of Findings.

Issued in Washington, DC, October 19, 1992.

John W. Bartlett,

Director, Office of Civilian Radioactive Waste Management.

BILLING CODE 6450-01-M



Location of Yucca Mountain Site in Southern Nevada.

[FR Doc. 92-25781 Filed 10-22-92; 8:45 am]
BILLING CODE 6450-01-C

Pittsburgh Energy Technology Center; Notice of Unsolicited Financial Assistance Award

AGENCY: Bartlesville Project Office and Pittsburgh Energy Technology Center, Department of Energy.

ACTION: Acceptance of an unsolicited proposal application of a grant award with the University of Alaska Fairbanks.

SUMMARY: The Department of Energy (DOE), Bartlesville Project Office announces that pursuant to 10 CFR 600.14(D) and (E), it intends to award a grant through the Pittsburgh Energy Technology Center to the University of Alaska Fairbanks for a research effort entitled "Study of Hydrocarbon Miscible Solvent Slug Injection Process for Improved Recovery of Heavy Oil from Schrader Bluff Pool, Milne Point Unit, Alaska".

ADDRESSES: Department of Energy, Pittsburgh Energy Technology Center, Acquisition and Assistance Division, P.O. Box 10940, MS 921-118, Pittsburgh, PA 15236.

FOR FURTHER INFORMATION CONTACT: Jo Ann C. Zysk, Contract Specialist (412) 892-6200.

SUPPLEMENTARY INFORMATION:

Grant Number: DE-FG22-93BC14864
Title of Research Effort: "Study of Hydrocarbon Miscible Solvent Slug Injection Process for Improved Recovery of Heavy Oil from Schrader Bluff Pool, Milne Point Unit, Alaska"
Awardee: University of Alaska Fairbanks
Term of Assistance Effort: Thirty-Six (36) months
Grant Estimated Total Value: $1,360,461.00 (DOE: $600,000.00; Cost-Sharing: $760,461.00)

Scope: The National Energy Strategy Plan (NES) has called for 900,000 barrels/day production of heavy oil in the mid-1990's to meet our national needs, and currently Alaska has more than 25 billion barrels of heavy oil deposits. This study is tailored to the unique Alaskan situation, and therefore important for the development of Alaskan resources to meet the national needs. These oil deposits have a higher developmental cost due to the unique environment and the remoteness of the region. Therefore, the method to be developed for the recovery of heavy oil must be designed to satisfy many of these conditions that are not relevant in the lower 48 states. DOE's support of this activity would enhance the public benefits to be derived by improvement of its technology transfer activities. The purpose of this research project is to determine the nature of miscible solvent slug which would be commercially feasible, to conduct reservoir simulation study to evaluate the performance of the hydrocarbon miscible solvent slug process and to assess the feasibility of this process for improved recovery of heavy oil from the Schrader Bluff Reservoir. The laboratory experimental work includes: PVT and fluid properties measurements, determination of phase behavior of oil-solvent mixtures, slim tube displacement experiments, asphaltene precipitation tests and core flood experiments. The components of solvent slug will include only those which are available on the North Slope of Alaska. The specific design and performance parameters to be determined include: Optimum hydrocarbon solvent composition, solvent slug sizes needed, solvent breakthrough and solvent recovery factor, extent and timing of solvent recycle, sweep and displacement efficiency and oil recovery.

Justification: Implementation of the proposed grant is based upon the authority of 10 CFR 600.14 (D) and (E). This is a thirty-six month research effort with an estimated value of $1,360,461.00 (DOE: $600,000.00; Total Cost-Sharing: $760,461.00). The research developed under this grant will be cost-shared by the Department of Energy, University of Alaska, and Conoco.

Dated: October 1, 1992.

Dale A. Siciliano,
Contracting Officer.

[FR Doc. 92-25782 Filed 10-22-92; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. QF88-85-004]

LG&E—Westmoreland Hopewell; Notice of Application for Commission Recertification of Qualifying Status of a Cogeneration Facility

October 19, 1992.

On October 13, 1992, LG&E—Westmoreland Hopewell of 2030 Main Street, Irvine, California 92714, submitted for filing an application for recertification of a facility as a qualifying cogeneration facility pursuant to Section 292.207(b) of the Commission's Regulations. No determination has been made that the submittal constitutes a complete filing.

The topping-cycle cogeneration facility is located in Hopewell, Virginia. The Commission previously certified the facility as a qualifying cogeneration facility, Ultra Cogen Systems, Inc., 43 FERC ¶ 62,103 (1988), and recertified the facility as a qualifying cogeneration facility, Hadson Power 13—Hopewell, 53 FERC 62,208 (1990) and Hadson Power 13—Hopewell, 59 FERC 62,168 (1992). The instant request for recertification is due to change in the name to LG&E—Westmoreland Hopewell and a request for waiver of the Commission's operating standard with respect to facility's testing period in 1992, pursuant to section 292.205(c) of the Commission's Regulations.

Any person desiring to be heard or objecting to the granting of qualifying status should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests must be filed within 30 days after the date of publication of this notice in the **Federal Register** and must be served on the applicant. 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 petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,
Secretary.

[FR Doc. 92-25809 Filed 10-22-92; 8:45 am]

BILLING CODE 6717-01-M

[Project Nos. 2422-004, 2287-003, 2326-002, 2327-002, 9713-001, 2311-001, 2288-004, and 2300-002]

Notice of Intention To Prepare an Environmental Impact Statement and Conduct Public Scoping Meetings; Androscoggin River, NH

October 19, 1992.

The Federal Energy Regulatory Commission (FERC) has received applications for seven new licenses for the continued operation of the Sawmill Project, FERC No. 2422; J. Brody Smith Project, FERC No. 2287; Cross Project, FERC No. 2326; Cascade Project, FERC No. 2327; Gorham Project, FERC No. 2311; Gorham Project, FERC No. 2288; Shelburne Project, FERC No. 2300; and one original license application for the construction and operation of the Alpine Project FERC No. 9713. The seven existing hydropower projects are located on the Androscoggin River. The Alpine Project would be located on Cascade Alpine Brook, a tributary of the Androscoggin River. All the projects are located in Coos County, New Hampshire.

The FERC staff has determined that licensing these projects would constitute a major federal action significantly affecting the quality of the human environment. Therefore, the staff intends to prepare an environmental impact statement (EIS) on the hydroelectric projects in accordance with the National Environmental Policy Act. The staff's EIS will objectively consider both site specific and cumulative environmental effects of the projects and reasonable alternatives, and will include an economic, financial, and engineering analysis.

A draft EIS will be issued and circulated for review by all interested parties. All comments filed on the draft EIS will be analyzed by the staff and considered in a final EIS. the staff's conclusions and recommendations will then be presented for the consideration of the Commission in reaching its final licensing decisions.

Scoping Meetings

FERC staff will conduct two scoping meetings. The evening scoping meeting is primarily for public input while the daytime meeting will focus on resource agency and non-governmental organization (NGO) concerns. All interested individuals, organizations, and agencies are invited to attend and assist the staff in identifying the scope of environmental issues that should be analyzed in the EIS.

To help focus discussions, a preliminary scoping document outlining subject areas to be addressed at the meeting will be distributed by mail to interested parties on the FERC mailing list. Copies of the preliminary scoping document will also be available at the scoping meetings.

The public scoping meeting will be conducted by staff in Berlin, New Hampshire, on Wednesday, November 18, 1992, from 7 p.m. to 10 p.m. at the City Hall Auditorium, 168 Main Street, Berlin, New Hampshire. The scoping meeting oriented toward resource agencies and NGOs will be conducted on Thursday, November 19, 1992, from 1 p.m. to 4 p.m. at the New Hampshire Fish and Game Department's Conference Room, 2 Hazen Drive, Concord, New Hampshire.

Objectives

At the scoping meetings, the staff will:

(1) Summarize the environmental issues tentatively identified for analysis in the planned EIS;

(2) Solicit from the meeting participants all available information, especially quantifiable data, on the resources at issue;

(3) Encourage statements from experts and the public on issues that should be analyzed in the EIS, including viewpoints in opposition to, or in support of, the staff's preliminary views;

(4) Determine the relative depth of analysis for issues to be addressed in the EIS; and

(5) Identify resource issues that are not important and do not require detailed analysis.

Procedures

The meetings will be recorded by a stenographer and will become part of the formal record of the Commission proceeding on the Androscoggin River projects under consideration. Individuals presenting statements at the meetings will be asked to sign in before the meeting starts and to clearly identify themselves for the record.

Individuals, organizations, and agencies with environmental expertise and concerns are encouraged to attend the meetings and to assist the staff in defining and clarifying the issues to be addressed in the EIS.

Participants wishing to make oral comments in the public meeting are asked to keep them to five minutes to allow everyone the opportunity to speak.

Persons choosing not to speak at the meetings, but who have views on the issues, may submit written statements for inclusion in the public record at the meeting. In addition, written scoping comments may be filed with the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426. All correspondence should clearly show one or more of the following caption on the first page: Sawmill Project, FERC Project No. 2422–004; J. Brodie Smith Project, FERC Project No. 2287–004; Cross Project, FERC Project No. 2326–002, Cascade Project, FERC Project No. 2327–002; Alpine Project, FERC Project No. 9713–001; Gorham Project, FERC No. 2288–003; Gorham Project, FERC Project No. 2311–001; or Shelburne Project, FERC Project No. 2300–002.

All those that are formally recognized by the Commission as intervenors in the Androscoggin Projects' proceedings are asked to retrain from engaging the staff in discussions of the merits of the projects outside of any announced meetings.

Further, parties are reminded of the Commissions Rules of Practice and Procedure, which require parties filing documents with the Commission to serve a copy of the document on each person whose name is on the official service list, including agents of the applicants.

For further information please contact R. Feller at (202) 219–2796.

Lois D. Cashell,

Secretary.

[FR Doc. 92–25800 Filed 10–22–92; 8:45 am]

BILLING CODE 6717–01–M

[Project No. 2409–042 California]

Calaveras County Water District; Notice of Availability of Environmental Assessment

October 19, 1992.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's regulations, 18 CFR part 380 (Order No. 486, 52 FR 47910), the Office of Hydropower Licensing (OHL) has reviewed the application for amendment of license to install a microturbine at the Mill Creek Tap, Calaveras County, California. The staff of OHL's Division of Project Compliance and Administration has prepared an Environmental Assessment (EA) for the proposed action. In the EA, the staff concludes that installation of the microturbine would not constitute a major federal action significantly affecting the quality of the human environment.

Copies of the EA are available for review in the Reference and Information Center, room 3308, of the Commission's Offices at 941 North Capitol Street, NE., Washington, DC 20426.

Lois D. Cashell,

Secretary.

[FR Doc. 92–25805 Filed 10–22–92; 8:45 am]

BILLING CODE 6717–01–M

Application Accepted for Filing With the Commission

October 19, 1992.

Take notice that the following hydroelectric application has been filed with the Federal Energy Regulatory Commission and is available for public inspection.

a. *Type of Application:* Major New License (Tendered Notice).

b. *Project No.:* 2705–003.

c. *Date filed:* September 30, 1992.

d. *Applicant:* Seattle City Light.

e. *Name of Project:* Newhalem Creek.

f. *Location:* On Newhalem Creek in Whatcom County, Washington, wholly within the Ross Lake National Recreation Area.

g. *Filed Pursuant to:* Federal Power Act, 16 USC §§ 791(a)–825(r).

h. *Applicant Contact:* Roberta Palm Bradley, Acting Superintendent, Seattle

City Light, 1015 Third Avenue, Seattle, WA 98104–1198, (206) 684–3200.

i. *FERC Contact:* James Hunter at (202) 219–2839.

j. *Description of Project:* The existing project consists of a diversion and intake structure, water conveyances, a powerhouse containing a 2.3–MW generating unit, a transmission line, and other appurtenant facilities. The project produces an average annual output of 18 GWh.

k. Under § 4.32(b)(7) of the Commission's regulations (18 CFR), if any resource agency, Indian Tribe, or person believes that the applicant should conduct an additional scientific study to form an adequate, factual basis for a complete analysis of this application on its merits, they must file a request for the study with the Commission, not later than November 30, 1992, and must serve a copy of the request on the Applicant.

Lois D. Cashell,

Secretary.

[FR Doc. 92–25700 Filed 10–22–92; 8:45 am]

BILLING CODE 6717-01-M

[Project Nos. 2266–036, *et al.*]

Hydroelectric Applications (Nevada Irrigation District, et al.); Applications

Take notice that the following hydroelectric applications have been filed with the Commission and are available for public inspection:

1a. *Type of Application:* Amendment of License.

b. *Project No:* 2266–036.

c. *Date Filed:* May 1, 1992.

d. *Applicant:* Nevada Irrigation District.

e. *Name of Project:* Yuba/Bear—Jackson Meadows and Bowman Dam Developments.

f. *Location:* The Jackson Meadows Dam is located on the Middle Yuba River in Sierra and Nevada Counties, California, near Sierra City. Bowman Dam is located on Canyon Creek in Nevada County, California. At Jackson Meadows, the existing dam and proposed power facilities are located in Tahoe National Forest, on U.S. lands administered by the U.S. Forest Service. At Bowman Lake, the dams are located partially in Tahoe National Forest and partially on land owned by the Nevada Irrigation District, and the powerhouse will be located on U.S. lands.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Nevada Irrigation District, Attn: James P. Chatigny, General Manager, 10836 Rough & Ready Highway, P.O. Box 1019, Grass Valley, CA 94945–1019.

i. *FERC Contact:* Buu T. Nguyen, (202) 219–2913.

j. *Comment Date:* December 1, 1992.

k. *Description of Amendment:* Nevada Irrigation District requests to delete the proposed construction of the Jackson Meadows development from the December 17, 1982 Order Amending License (Major). The reason for the deletion of the proposed Jackson Meadows development is primarily financial.

l. This notice also consists of the following standard paragraphs: B, C, and D2.

2 a. *Type of Application:* New Major License.

b. *Project No:* 2287–003.

c. *Date Filed:* December 26, 1991.

d. *Applicant:* Public Service Company of New Hampshire.

e. *Name of Project:* J. Brodie Smith.

f. *Location:* On the Androscoggin River near Berlin in Coos County, New Hampshire.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. James J. Kearns, 1000 Elm Street, P.O. Box 330, Manchester, NH 03105, (603) 634–2799.

i. *FERC Contact:* Ms. Julie Bernt, (202) 219–2814.

j. *Deadline Date:* December 14, 1992.

k. *Status of Environmental Analysis:* This application has been accepted for filing but is not ready for environmental analysis at this time—see attached paragraph E.

l. *Description of Project:* The licensed project would consist of the following existing facilities: (1) A 24-foot-high masonry and concrete dam; (2) two spillways, one 170 feet long and the other 256 feet long; (3) a reservoir with a surface area of 8 acres at surface elevation 1,009.7 feet USGS and storage area of 60 acre-feet; (3) an 18-foot-diameter, 1,450-foot-long steel penstock; (4) a 1.15-million-gallon steel surge tank; (5) an 18-feet-diameter, 200-foot-long penstock; (6) a powerhouse containing one generating unit with a rated capacity of 13 MW; (7) a 1,500-foot-long transmission line; and, (8) appurtenant facilities. The applicant is proposing no changes to the project. The average annual net energy generation is 104,261 MWh. The applicant owns all the existing project facilities.

The existing project would also be subject to Federal takeover under Sections 14 and 15 of the Federal Power Act.

m. *Purpose of Project:* Project power would be utilized by the applicant for sale to its customers.

n. This notice also consists of the following standard paragraphs: B1 and E.

o. *Available Location of Application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference and Files Maintenance Branch, located at 941 North Capitol Street NE., room 3104, Washington, DC 20426, or by calling (202) 208–1371. A copy is also available for inspection and reproduction at Public Service Company of New Hampshire, 1000 Elm Street, Manchester, NH 03105, or by calling (603) 669–4000.

3 a. *Type of Application:* New License.

b. *Project No:* 2290–006.

c. *Date filed:* December 27, 1991.

d. *Applicant:* Southern California Edison Company.

e. *Name of Project:* Kern River #3.

f. *Location:* In Sequoia National Forest, on the North Fork Kern River, in Kern and Tulare Counties, California. Townships 23–27 S, Ranges 31–33 E.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. David N. Barry, Southern California Edison Company, P.O. Box 800, Rosemead, CA 91770.

i. *FERC Contact:* Michael Spencer at (202) 219–2846.

j. *Comment Date:* December 16, 1992.

k. *Status of Environmental Analysis:* This application is not ready for environmental analysis at this time—see attached paragraph E.

l. *Description of Project:* The project would consist of: (1) the 26-foot-high Fairview dam on the North Fork Kern River; (2) the 5-foot-high Salmon Creek diversion dam; (3) the 8-foot-high Corral Creek diversion dam; (4) tunnels totalling 60,270 feet in length; (5) concrete flumes totalling 4,600 feet in length; (6) a 1,146-foot-long steel pipe siphon; (7) a forebay; (8) two 2,500-foot-long penstocks with diameters varying between 84 inches to 60 inches; (9) a powerhouse containing two generating units with a combined installed capacity of 40.2 MW and an average annual generation of 186,358 MWh; (10) three 66 kV transmission lines, one 45 miles long, one 27 miles long and one 1,947 feet long; and (11) appurtenant facilities.

The Licensee is not proposing any changes to the existing project works.

m. *Purpose of Project:* All project energy generated would be utilized by the Licensee.

n. This notice also consists of the following standard paragraphs: B1, and E.

4 a. *Type of Application:* New License.

b. *Project No.:* 2323-012.

c. *Date Filed:* December 27, 1991.

d. *Applicant:* New England Power Company.

e. *Name of Project:* Deerfield River Project.

f. *Location:* On the Deerfield River, Windham and Bennington Counties, Vermont, and Franklin and Berkshire Counties, Massachusetts.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. *Applicant Contact:* Mr. Mark E. Slade, New England Power Company, 25 Research Drive, Westborough, MA 01582, (508) 366-9011.

i. *FERC Contact:* Michael Dees (202) 219-2807.

j. *Deadline Date:* December 12, 1992.

k. *Status of Environmental Analysis:* This application is not ready for environmental analysis at this time—see attached standard paragraph E.

l. *Description of Project:* The Deerfield project consists of eight facilities as follows:

Somerset

The Somerset facility, located on the East Branch of the Deerfield River, consists of (1) an earthfill dam structure about 110 feet high and 2,101 feet long with a crest elevation of 2133.58 feet (MSL), (2) main outlet works located at the eastern end of the dam which consists of two gated, 48 inch diameter pipes that are used to control reservoir discharge and (3) a side channel spillway located at the western end of the dam with a crest elevation of 2133.58 (MSL). The spillway channel is about 800 feet long, impoundment is about 5.6 miles long, and has a gross surface area of about 1,514 acres (AC), a gross storage capacity of 57,345 acre-feet (AF), a usable storage capacity of 20,614 (AF) and a normal pool headwater elevation range of 2,113.10 to 2,128.10 feet msl. There are no power generating units at this facility and therefore, no diversion canals or penstocks.

Searsburg

The Searsburg facility consists of (1) an earthfill dam structure about 50 feet high and 475 feet long with a 137 foot long concrete gravity spillway, with a crest elevation of 1749.66 feet msl, topped with 5-foot flasboards (from May 1 to October 31), (2) intake and penstock with (a) wood stave conduit 8 feet in diameter and 18,412 feet long, (b) steel differential surge tank 50 feet in diameter and 34 feet high, and (c) steel penstock 6.5 feet in diameter and 495 feet long. Bond Brook, which enters the Deerfield River at RM 58.6, is diverted into the 8-foot diameter wood stave conduit, (3) a powerhouse containing one vertical Francis hydroelectric unit with a nameplate capacity of 4,160 KW, (4) an impoundment, about 0.9 miles long, with a surface area of about AC, a gross storage capacity of 412 AF, a usable storage capacity range of 67 to 197 AF, and a normal pool elevation range of 1746.66 to 1754.66 feet msl, and (5) appurtenant facilities.

Harriman

The Harriman facility consists of (1) an earthfill dam 215.5 feet high and 1,250 feet long, (2) a storage reservoir, 9 miles long, having a surface area of about 2,039 AC, a gross storage capacity of 117,300 AF, a usable storage capacity of 103,375 AF (from elevation 1405.66 to 1491.66 feet msl), and a normal pool headwater elevation of 1449.70 to 1491.66 feet msl; (3) morning glory spillway, with sixteen gates, at a sill elevation of 1491.66 msl, topped with 6-foot-high flashboards, and (4) an intake tunnel and penstocks which convey water to the powerhouse by means of two-eight foot diameter valves. Water is conveyed through these valves to the powerhouse via (a) a 12,812 foot long, 14 foot diameter concrete lined horseshoe shaped tunnel, (b) a steel differential surge tank 34 feet in diameter and 184 feet high, (c) and three steel penstocks 9 feet in diameter and 620 feet long. The (5) powerhouse contains three vertical Francis hydroelectric units with a total hydraulic capacity of 1,600 cfs, and a nameplate capacity of 11,200 KW each, as well as appurtenant facilities.

Sherman

The Sherman facility consists of (1) an earthfill dam which is 110 feet high and 810 feet long, with a crest elevation of 1129.66 feet msl; (2) a 179 foot long concrete gravity spillway, with a crest elevation of 1103.66 feet msl, topped with 4-foot-high flashboards which operate year-round; (3) a concrete and brick intake structure and penstock which conveys water to the powerhouse via a concrete conduit 98 feet in length with a cross-sectional area of 142 square feet, and a steel penstock 13 feet in diameter and 227 feet long; (4) an impoundment, about 2 miles long, having (a) surface area of about 218 AC; (b) a gross storage capacity of 3,593 AF; (c) a useable storage capacity of 1,359 AF; and (d) a normal pool headwater elevation range of 1104.66 to 1107.66 feet msl. There are no diversion canals or tunnels associated with the Sherman Development. The (5) powerhouse contains (a) one vertical Francis Hydroelectric unit with a hydraulic capacity of 1,200 cfs and (b) other appurtenant facilities.

Deerfield No. 5

The Deerfield No. 5 facility consists of (1) two dams. The Deerfield No. 5 Dam, which is currently being replaced, will be comprised of (a) concrete gravity spillway about 35 feet high and 90 feet long, with a top elevation of 1,109.66 feet msl, topped with 8-foot-high hydraulic steel flap gates which maintain a normal reservoir elevation of 1027.66 feet msl, and a (b) concrete intake structure, consisting of two 8-foot wide by 7.75 foot-high sluice gates, with a sill elevation of 1002.28 feet msl, and a single 12.5 foot by 13-foot intake gate with a sill elevation of 1008.16 msl. The dam is presently under construction and is expected to be in service by the end of 1992. There is a small diversion structure on Dunbar Brook which is a concrete gravity structure approximately 12 feet high and 160 feet long. The Deerfield No. 5 facility contains (2) conveyance sections of tunnel, concrete conduit, and canal totaling 14,941 feet, as well as (3) a steel penstock 10 feet in diameter and 400 feet long. The (4) impoundment is about 0.75 miles long, having a surface area of about 38 AC, a storage capacity of 118 AF, and a normal pool headwater elevation range of 1022.66 to 1026.66 feet msl. The (5) powerhouse contains one vertical Francis hydroelectric unit with a nameplate capacity of 17,550 KW and a hydraulic capacity of 1,250 cfs. The minimum turbine flow is 500 cfs. The (5) switchyard is located on River Road across from the Bear Swamp Visitor's Center and contains appurtenant facilities.

Deerfield No. 4

The Deerfield No. 4 facility contains (1) an earthfill dam (with a concrete core) about 50 feet high and 160 feet long, (2) a 241 foot long concrete gravity spillway with a crest elevation of 465.66 feet msl, topped with 6-8 foot high wooden flashboards: and (3) three sluice gates located in the east abutment, two with a sill elevation of 462.66 feet msl and another with a sill elevation of 4642.66 feet msl. The (4) impoundment is about 2 miles long, having a surface area of about 75 AC, a gross storage capacity of 467 AF, and a usable storage capacity of 432.AF, and a normal pool headwater elevation range of 465.66 to 473.66 feet msl. The (5) power tunnel conveys water from the intake structure at the impoundment via a 12.5 foot diameter, 1,514 foot long concrete and brick-lined horseshoe shaped tunnel that leads to the powerhouse forebay. The (6) powerhouse contains three horizontal Francis hydroelectric units with a

nameplate capacity of 1,600 KW each, and a hydraulic capacity of 1,490 cfs. The powerhouse also contains appurtenant facilities.

Deerfield No. 3

The Deerfield No. 3 Dam is composed of (1) a concrete gravity spillway about 15 feet high and 475 feet long with a crest elevation of 396.66 feet msl, topped with 6-foot high wooden flashboards; (2) 2 sluice gates and a (3) power tunnel intake located in the south abatement. The power tunnel exiting the gated intake is a 677 foot long, 17 foot wide by 12.5 high concrete conduit. The (4) impoundment is about 1.3 miles long, having a surface area of about 42 AC, a gross storage capacity of 221 AF, a usable storage capacity of 200 AF and a normal pool headwater elevation range of 396.66 to 402.66 feet msl. The (5) Deerfield No. 3 powerhouse contains three horizontal Francis hydroelectric units with a nameplate capacity of 1,600 KW each and a hydraulic capacity of 1490 cfs. The (6) switchyard is located within the powerhouse and contains appurtenant facilities.

Deerfield No. 2

The Deerfield No. 2 facility contains a (1) concrete gravity spillway about 70 feet high and 447 feet long, with a top elevation of 284.66 feet msl, topped with 6-foot-high wooden flashboards and four sluice gates. The (2) impoundment is about 1.5 miles long, with a surface area of about 63.5 AC, a gross storage capacity of 350 AF, a usable storage capacity of 300 AF, and a normal pool headwater elevation range of 284.66 to 290.66 feet msl. The (3) powerhouse is located adjacent to the Deerfield No. 2 Dam, thus there are no canals, conduits, or tunnels required at this development. The powerhouse contains three horizontal Francis hydroelectric units with a nameplate capacity of 1,600 KW each and a hydraulic capacity of 1450 cfs. The (4) switchyard is located within the powerhouse and contains appurtenant facilities.

The existing project would also be subject to Federal takeover under sections 14 and 15 of the Federal Power Act.

m. *Purpose of Project:* The purpose of the project is to generate electric energy to meet New England Power Company's peak energy demand and provide electric system operating reserves.

n. This notice also consists of the following standard paragraphs: B1 and E.

o. *Available Location of Application:* A copy of the application, as amended and supplemented, is available for inspection and reproduction at the Commission's Public Reference and Files Maintenance Branch, located at 941 North Capitol Street, NE., Room 3104, Washington, DC, 20426, or by calling (202) 208–1371. A copy is also available for inspection and reproduction at New England Power Company, 25 Research Drive, Westborough, MA, 01582.

5 a. *Type of Application:* New License.

b. *Project No.:* 2342–005.

c. *Date Filed:* December 23, 1991.

d. *Applicant:* PacifiCorp Electric Operations.

e. *Name of Project:* Condit Hydroelectric Project.

f. *Location:* On the White Salmon River, a tributary of the Columbia River, in Skamania and Klickitat Counties, Washington, near the town of White Salmon. The project does not affect lands of the United States.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:*

Stanley A. de Sousa, Director, Hydro Resources, PacifiCorp Electric Operations, 920 SW. Sixth Avenue, Portland, OR 97204, (503) 464–5343.

Thomas H. Nelson, Stoel Rives Boley Jones & Grey, Standard Insurance Center, 900 SW. Fifth Avenue, Portland, OR 97204–1268, (503) 294–9281.

i. *FERC Contact:* Ms. Deborah Frazier-Stutely (202) 219–2842

j. *Comment Date:* December 14, 1992.

k. *Description of Project:* The existing project would consist of: (1) A 125-foot-high, 471-foot-long concrete gravity dam, at crest elevation 297.5 [1] feet; (2) a 250-foot-long spillway consisting of 10 feet high flashboards, five 10-feet by 10-feet radial gates, and two 6 feet by 12 feet slide gates; (3) the 92-acre Northwestern Lake with a gross storage capacity of 1,300 acre-feet, but will have a usable storage of 615 acre-feet, with a surface elevation between 294.8 and 290 feet; (4) a reinforced concrete spillway channel consisting of four 32-foot-wide spillway gates; (5) an intake structure; (6) a 13.5-foot-diameter, 5,100-foot-long woodstave flowline; (7) a 40-foot-diameter, 45-foot-high reinforced concrete surge tank, at elevation 300 feet; (8) two 9-foot-diameter, 650-foot-long penstocks, one steel and one woodstave; (9) a 150-foot-long, 75-foot-wide concrete powerhouse containing 2 generating units with a combined capacity of 14,700 kW; (10) a 350-foot-long concrete-lined tailrace channel, to be modified; (11) a switchyard; (12) a 69-kV, 230-foot-long transmission line; and (13) related facilities.

The average annual energy presently generated at the site is 77,850 MWh.

The licensee proposes to upgrade the existing generating units, exciters, associated equipment,increasing the generating units by 1,100 kW.

The existing project along with the proposed additions and modifications would increase the installed capacity to 15,800 kW, and the average annual generation to 86,510 MWh.

l. *Purpose of Project:* Project power would be sold to a local utility.

m. This notice also consists of the following standard paragraphs: B1, E.

n. *Available Locations of Applications:* A copy of the application, as amended and supplemented, is available for inspection and reproduction at the Commission's Public Reference and Files Maintenance Branch, located at 941 North Capitol Street, NE., room 3104, Washington, DC 20426, or by calling (202) 208–1371. A copy is also available for inspection and reproduction at the applicant's office (see item (h) above).

6. a. *Type of Application:* New License.

b. *Project Nos.:* 2555–001, 2556–004, 2557–004, 2559–003.

c. *Date Filed:* December 4, 1991.

d. *Applicant:* Central Maine Power Co.

e. *Name of Project:* Automatic, Union Gas, Rice Rips, and Oakland Projects (Messalonskee Project).

f. *Location:* On Messalonskee Stream, Kennebec County, Maine.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. *Applicant Contact:* Mr. Gerald C. Poulin, Central Maine Power Co., Edison Drive, Augusta, ME 04336, (207) 623–3521.

i. *FERC Contact:* Michael Dees (202) 219–2807.

j. *Deadline Date:* December 14, 1992.

k. *Status of Environmental Analysis:* This application has been accepted for filing but is not ready for environmental analysis at this time—see attached standard paragraph E.

l. *Description of Project:* The pending application will consolidate the four licensed projects listed below into one licensed project (Messalonskee Project).

Messalonskee project	FERC No.
Automatic Development	P-2555
Union Gas Development	P-2556
Rice Rips Development	P-2557
Oakland Development	P-2559

[1] PacifiCorp datum, add 6.0 feet to convert to msl datum.

The Messalonskee Project consists of one storage facility, the Messalonskee Lake Development, and four discrete generating facilities, beginning with the most upstream: the Oakland Development, the Rice Rips Development, the Automatic Development, and the Union Gas Development. The Project has a total nameplate generator capacity of 6.7 megawatts (MW) and an average annual gross generation of about 23,000 megawatt-hours (MWH).

The existing Messalonskee Project's principal features consists of one storage lake, four dam structures, four impoundments, four powerhouses, and appurtenant facilities. In detail, the existing project is described as follows:

Messalonskee Lake Development

(1) An L-shaped masonry gravity dam, maximum of 12.5 feet high by 150 feet long, consisting of (a) 108-foot-long spillway section, with a crest elevation of 233.9 feet (USGS) and topped with 2-ft-high flashboards; (b) two Taintor gates section, each measuring about 10 feet high by 12 feet wide; and (c) a wastegate about 10 feet high by 4 feet wide;

(2) A storage reservoir, about 3,500 feet average in width and stretches about 15 miles upstream from the Oakland Development, having (a) a surface area of about 3,600 acres (AC); (b) a useable storage capacity of about 3,400 acre-feet (AF); (c) a gross storage of about 110,000 AF; and (d) a normal pool headwater elevation of 235.4 feet (USGS).

Oakland Development

(1) A concrete gravity dam consisting of (a) a 63-foot-long spillway section with a crest elevation of 207.1 ft (USGS), at a maximum height of 14 feet; (b) an intake section, about 51 feet long by 35 feet wide, with a deck elevation of 213.3 ft (USGS), having (i) a fiberglass-lined steel penstock, 10 feet in diameter and about 466 feet in length, and (ii) a surge tank, 32 feet long by 25 feet wide, rising about 21 feet above grade; and (c) a gate section with one Taintor gate, about 6 feet high by 12 feet wide, and a 4-foot square waste gate, located below the sill of the Taintor gate;

(2) A concrete-steel with stone masonry powerhouse, about 90-feet high by 38 feet wide by 38 feet long, equipped with one vertical Francis turbine and Allis-Chalmers generator combination having (a) a rated capacity of 2,800 kilowatts (kW); (b) a hydraulic capacity of 590 cubic feet per second (cfs); and (c) a rated head of 67 feet;

(3) An impoundment of about 0.4 miles long, having (a) a surface area of about 10 AC; (b) a 50 AF gross storage capacity, but a negligible useable storage capacity; and (c) a normal pool headwater elevation of 207.1 feet (USGS) and tailwater elevation of 139.8 feet (USGS); and

(4) Appurtenant facilities.

Rice Rips Development

(1) A concrete Ambursen dam, totaling about 220 feet long, with a maximum height of 23 feet, consisting of: (a) A 51-foot-long non-overflow embankment with a concrete core wall extending to an elevation of 145.2 feet (USGS); (b) a gated concrete intake section, about 41 feet long by 30 feet wide, having (i) a wooden staved penstock, 10 feet in diameter and about 2,293 feet in length which extends to (ii) a surge pond, about 150 feet in diameter, having an elevation of 143.2 feet (USGS), which exits to a 25-foot-wide intake structure, (iii) located east of the intake structure, a secondary spillway section about 67 feet long with a crest elevation of 141.2 feet (USGS); and (c) a 27-foot-long primary spillway section with a crest elevation of 139.7 ft (USGS), topped with about 5-foot-high hinged flashboards;

(2) A concrete-steel with brick masonry powerhouse, about 60 feet high by 38 feet wide by 38 feet long, equipped with one vertical Francis turbine and Allis-Chalmers generator combination having (a) a rated capacity of 1,600 kW; (b) a hydraulic capacity of 630 cfs; and (c) a rated head of 42 feet;

(3) An impoundment of about 1.6 miles long, having (a) a surface area of about 87 AC; (b) a gross storage capacity of 1,000 AF, but a negligible useable storage capacity; and (c) a normal pool headwater elevation of 139.1 feet (USGS) and tailwater elevation of 96.7 feet (USGS); and

(4) Appurtenant facilities.

Automatic Development

(1) A concrete gravity dam, totaling about 81 feet long, with a maximum height of 33 feet, consisting of: (a) A 30-foot-long non-overflow section with a top elevation of 102.7 feet (USGS); (b) a gated section, about 20 feet long by 2 feet wide, at a top elevation of 102.7 ft (USGS), having one Taintor gate, measuring 14 feet high by 16 feet wide at a sill elevation of 82.2 ft (USGS); (c) a 30-foot-long spillway section with two 14-foot wide opened sections, separated by a 2-foot wide pier with a top elevation of 102.7 ft (USGS), having a crest elevation of 92.4 ft (USGS), topped with about 2-foot-high flashboards; (d) an intake section beneath the spillway; and (e) an earthen section containing a 30-foot-long retaining wall at a top elevation of 102.7 ft (USGS);

(2) A concrete and brick powerhouse, about 63 feet high by 19 feet wide by 31 feet long, equipped with one horizontal Francis turbine and General Electric generator combination having (a) a rated capacity of 800 kW; (b) a hydraulic capacity of 615 cfs; and (c) a rated head of 23 feet;

(3) An impoundment of about 4.5 miles long, having (a) a surface area of about 68 AC; (b) a 900 AF of gross storage capacity, but a negligible useable storage capacity; and (c) a normal pool headwater elevation of 94.3 feet (USGS) and tailwater elevation of 71.3 feet (USGS); and

(4) Appurtenant facilities.

Union Gas Development

(1) A stone-masonry gravity dam with concrete facing, totalling about 343 feet long, with a maximum height of 31 feet, consisting of: (a) A non-overflow section, measuring 122 feet from the east river bank to an angle point, where it continues 15 feet to the gate section, and 54 feet downstream; (b) a gated intake section, about 32 feet long, having (i) three deep gates, measuring 8 feet high by 6 feet wide, at a sill elevation of 43.1 feet (USGS), (ii) a wooden gatehouse to hoist of the deep gates, measuring about 32 feet by 11 feet; (c) a 32-foot-long spillway section with a crest elevation of 67.6 ft (USGS), topped with about 18-inch-high pin-supported flashboards; (d) a 41-foot-long masonry intake structure, with two intakes, each measuring 8 ft in diameter; and (e) another stone masonry non-overflow section about 73 feet long;

(2) A concrete-stone masonry powerhouse, about 50 feet high by 46 feet wide by 60 feet long, equipped with one vertical Francis turbine and General Electric generator combination having (a) a rated capacity of 1,500 kW; (b) a hydraulic capacity of 660 cfs; and (c) a rated head of 35 feet;

(3) An impoundment of about 1.5 miles long, having (a) a surface area of about 25 AC; (b) a useable storage capacity of 30 AF; (c) a gross storage capacity of 600 AF; (d) a normal pool headwater elevation of 69.1 feet (USGS) and tailwater elevation of 31.3 feet; and

(4) Appurtenant facilities.

The existing project would also be subject to Federal takeover under sections 14 and 15 of the Federal Power Act.

m. *Purpose of Project:* The purpose of the project is to provide electric energy to the applicant's electric system.

n. This notice also consists of the following standard paragraphs: B1 and E.

o. *Available Location of Application:* A copy of the application, as amended and supplemented, is available for inspection and reproduction at the Commission's Public Reference and Files Maintenance Branch, located at 941 North Capitol Street, NE., room 3104, Washington, DC, 20426, or by calling (202) 208–1371. A copy is also available for inspection and reproduction at Central Maine Power Co., Edison Drive, Augusta, ME, 04336.

7. a. *Type of Application:* New License.

b. *Project No.:* 2584–003.

c. *Date Filed:* December 27, 1991.

d. *Applicant:* Rochester Gas & Electric Corporation.

e. *Name of Project:* Station No. 26 Project.

f. *Location:* On the Genesee River, Monroe County, New York.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. Clyde A. Forbes, Rochester Gas & Electric Corporation, 89 East Avenue, Rochester, NY 14649, (716) 724–8110.

i. *FERC Contact:* Michael Dees (202) 219–2807.

j. *Deadline Date:* December 14, 1992.

k. *Status of Environmental Analysis:* This application has been accepted for filing but is not ready for environmental analysis at this time—see attached standard paragraph E.

l. *Description of Project:* The project structures consist of a dam structure, an intake structure, a penstock, a powerhouse, a tailrace, an impoundment, a transmission line, and appurtenant facilities. The existing project has a generator capacity of 3.0 megawatts (MW), a hydraulic capacity range of 200 to 1,800 cubic feet per second (cfs), and an average annual generation of about 12,000 megawatt-hours (MWH).

The applicant has proposed to replace the turbine's runners, which would increase the gross generating output of the project. The proposed project would have a gross generating output of 3.3 MW, a hydraulic capacity range of 250 to 1,900 cfs, and an average annual generation of about 18,000 MWH.

In detail, the existing and proposed project is described as follows:

(1) A concrete gravity dam consisting of four hydraulically operated sector gates: (a) Two of which are 110 feet long by 9 feet high, with a sill elevation of 502.87 feet mean sea level (msl); and (b) two of which are 54 feet long by 9 feet high, with a sill elevation of 502.87 feet msl;

(2) A concrete intake structure consisting of nine individual bays with trashracks of ¼ inch bars at 3¾ inch spacings, and a total gross area of 1,600 square feet;

(3) A horseshoe-shaped concrete penstock, 262 feet long with an average cross-sectional area of 200 square feet;

(4) A brick and steel powerhouse, about 50 feet long by 45 feet wide by 34 feet high, equipped with one vertical Kaplan electric generating unit having (a) an existing capacity of 3.0 megawatts (MW), a hydraulic capacity range of 200 to 1,800 cubic feet per second (cfs), an average annual generation of 12,000 MWH, and a net head of 25 feet; and (b) the proposed capacity of 3.3 MW, a hydraulic capacity range of 250 to 1,900 cfs, an average annual generation of 18,000 MWH, and a net head of 86 feet;

(5) An impoundment having (a) a surface area of 90 acres (AC); (b) a gross storage capacity of 2,000 acre-feet (AF) and a negligible useable storage capacity; and (c) a minimum and maximum headwater elevation of 512.6 to 513.1 feet msl, respectively;

(6) An underground transmission line; and

(7) Appurtenant facilities.

The existing project would also be subject to Federal takeover under sections 14 and 15 of the Federal Power Act.

m. *Purpose of Project:* The purpose of the project is to provide electric energy to the applicant's electric system.

n. This notice also consists of the following standard paragraphs: B1 and E.

o. *Available Location of Application:* A copy of the application, as amended and supplemented, is available for inspection and reproduction at the Commission's Public Reference and Files Maintenance Branch, located at 941 North Capitol Street NE., room 3104, Washington, DC, 20426, or by calling (202) 208–1371. A copy is also available for inspection and reproduction at Rochester Gas & Electric Corporation, 89 East Avenue, Rochester, NY, 14649.

8 a. *Type of Application:* Major License.

b. *Project No.:* 10615–001.

c. *Date Filed:* February 21, 1989.

d. *Applicant:* Wolverine Power Supply Cooperative, Inc.

e. *Name of Project:* Tower and Kleber Hydro Project.

f. *Location:* On the Black River in Cheboygan County, Michigan.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. Raymond Towne, Wolverine Power Supply Cooperative, Inc., 10125 West Wayergate Road, P.O. Box 229, Cadillac, MI 49601, (616) 582–6572.

i. *FERC Contact:* Ed Lee (202) 219–2809.

j. *Deadline Date:* December 7, 1992.

k. *Status of Environmental Analysis:* This application is ready for environmental analysis at this time—see attached paragraph D10.

l. *Description of Project:* The existing project would consist of two hydroelectric developments:

A. The constructed Tower Hydro Project which consists of: (1) The 727-foot-long and 22-foot-high Tower Dam with a 110-foot-long gated spillway and an intake structure integral with the powerhouse equipped with 4 vertical slide headgates; (2) a 102-acre reservoir having a maximum storage capacity of 620 acre-feet at 772.1 feet m.s.l.; (3) a brick reinforced concrete powerhouse integral with the dam and housing two 280-kW generating units for a total installed capacity of 560 kW; (4) a non-operational sluiceway; (5) a 150-foot-long, 69-kV transmission line; and (6) appurtenant facilities.

B. The constructed Kleber Hydro Project which consists of: (1) The 535-foot-long and 40-foot-high Kleber Dam with a 12-foot-long ogee-type spillway controlled by a tainter gate and a 200-foot-long uncontrolled emergency spillway; (2) a 295-acre reservoir having a maximum storage capacity of 3,000 acre-feet at 701.1 feet m.l.s.; (3) two 84-inch-diameter and 139-foot-long steel penstocks; (4) a reinforced concrete powerhouse 42-foot-long by 40-foot-wide by 54-foot-high and housing two 600-kW generating units for a total installed capacity of 1,200 kW; (6) a 50-foot-long, 12.5-kV transmission line; and (7) appurtenant facilities.

No changes and additions are being proposed for this existing and operating project which was found to be jurisdictional under UL–86–1. The combined capacity for the two developments is 1,760 kW with an average annual generation of 7,498 MWH. The two dams and all related existing project facilities are owned by the applicant.

m. *Purpose of Project:* Project power would be utilized by the applicant for sale to its customers.

n. This notice also consists of the following standard paragraphs: A4 and D10.

o. *Available Location of Application:* A copy of the application, as amended and supplemented, is available for inspection and reproduction at the Commission's Public Reference and Files Maintenance Branch, located at 941 North Capitol Street NE., room 3104, Washington, DC 20426, or by calling (202) 208–1371. A copy is also available

for inspection and reproduction at Wolverine Power Supply Cooperative, Inc., 10125 West Wayergate Road, P.O. Box 229, Cadillac, MI 49601 or by calling (616) 582–6572.

9 a. *Type of Application:* Minor License.

b. *Project No.:* 10716–001.

c. *Date Filed:* September 28, 1992.

d. *Applicant:* Rankin and Associates.

e. *Name of Project:* Oregon Hydro Project.

f. *Location:* On the Rock River, in Ogle County, Illinois.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Ronald A. Rankin, 11124A Bunker Hill Drive, Wheaton, Illinois 60187, (708) 665–5467.

i. *FERC Contact:* Mary C. Golato, (202) 219–2804.

j. *Comment Date:* November 27, 1992.

k. *Description of Project:* The proposed project consists of the following features: (1) An existing dam 12 feet high and 867.5 feet long; (2) an existing reservoir with a surface area of 900 acres and a storage capacity of 3,500 acre-feet; (3) a rehabilitated powerhouse containing two 250-kilowatt turbine-generating units; (4) a short transmission line; and (5) appurtenant facilities. The applicant estimates that the total average annual generation would be 3,600,000 kilowatthours. The dam and powerhouse foundation are owned jointly by the Illinois Department of Conservation and the City of Oregon.

l. Pursuant to § 4.32(b)(7) of 18 CFR of the Commission's regulations, if any resource agency, Indian Tribe, or person believes that an additional scientific study should be conducted in order to form an adequate factual basis for a complete analysis of the application on its merit, the resource agency, Indian Tribe, or person must file a request for a study with the Commission not later than 60 days from the filing date and serve a copy of the request on the applicant.

10 a. *Type of Application*: Major License.

b. *Project No.*: 10805–001.

c. *Date filed*: September 25, 1992.

d. *Applicant*: Midwest Hydraulic Company.

e. *Name of Project*: Hatfield Hydro Project.

f. *Location*: On the Black River, in Jackson and Clark Counties, Wisconsin.

g. *Filed Pursuant to*: Federal Power Act 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact*: Peter H. Burno, R.R. #2, Box 345, Edgerton, WI 53534, (608) 884–9416.

i. *FERC Contact*: Mary C. Golato (202) 219–2804.

j. *Comment Date*: November 24, 1992.

k. *Description of Project*: The proposed project consists of the following features: (1) An existing diversion dam 3,100 feet long and 48 feet high; (2) an existing reservoir with a surface area of 945 acres with a gross storage capacity of 10,800 acre-feet; (3) an existing penstock approximately 140 feet long by 100 feet wide; (4) an existing powerhouse containing two existing turbine-generator units at a total capacity of 6,000 kilowatts (kW) and two proposed low flow units at a total rated capacity of 532 kW; and (5) appurtenant facilities. The applicant estimates that the total average annual generation would be 20,000,000 kilowatthours. The dam is owned by Hatfield Hydro Partnership.

l. Pursuant to § 4.32(b)(7) of 18 CFR of the Commission's regulations, if any resource agency, Indian Tribe, or person believes that an additional scientific study should be conducted in order to form an adequate factual basis for a complete analysis of the application on its merit, the resource agency, Indian Tribe, or person must file a request for a study with the Commission not later than 60 days from the filing date and serve a copy of the request on the applicant.

11 a. *Type of Application*: Minor License.

b. *Project No.*: 11264–000.

c. *Date filed*: March 6, 1992.

d. *Applicant*: Turbine Industries, Inc.

e. *Name of Project*: Coolemee Dam Hydro Project.

f. *Location*: On the South Fork of the Yadkin River, Davie County, North Carolina.

g. *Filed Pursuant to*: Federal Power Act 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact*: Mr. George S. Cook, Turbine Industries, Inc., 5312 Groometown Road, Greensboro, North Carolina 27407 (919) 294–9995.

i. *FERC Contact*: Mary Golato (202) 219–2804.

j. *Deadline Date*: December 18, 1992.

k. *Status of Environmental Analysis*: This application is not ready for environmental analysis at this time—see attached paragraph D8.

l. *Description of Project:* The proposed project facilities would consist of: (1) An existing dam 500 feet long and 12 feet high; (2) an existing reservoir with a surface area of 20 acres at a spillway crest elevation of 658 feet mean sea level and a gross storage capacity of 56 acre-feet; (3) two existing penstocks 8 feet in diameter and 84 and 150 feet long, respectively; (4) an existing powerhouse containing two turbine-generator units having a total capacity of 1,400 kilowatts; (5) a proposed 150-foot-long, 2.4-kilovolt transmission line; and (6) appurtenant facilities. The applicant estimates that the cost of the project is $250,000. The average annual generation will be approximately 6.2 gigawatthours. The dam is owned by Turbine Industries, Inc.

m. *Purpose of Project*: All project energy generated would be utilized by the applicant for sale to its customers.

n. This notice also consists of the following standard paragraphs: A2, A9, B1, and D8.

o. *Available Locations of Application*: A copy of the application is available for inspection and reproduction at the Commission's Public Reference and Files Maintenance Branch, located at 941 North Capitol St., NE., room 3104, Washington, DC 20426, or by calling (202) 219–1371. A copy is also available for inspection and reproduction at Mr. George S. Cook, 5312 Groometown Road, Greensboro, North Carolina 27407 (919) 294–9995.

12 a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 11304–000.

c. *Date Filed:* June 22, 1992.

d. *Applicant:* City and County of San Francisco, CA.

e. *Name of Project:* Calaveras Reservoir/Dam Power Project.

f. *Location:* On Calaveras Reservoir and existing municipal water facilities in Alameda and Santa Clara Counties California, near the town of Milpitas.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:*

Mr. John Mullane, General Manager & Chief Engineer, San Francisco Water Department, 425 Mason Street, San Francisco, CA 94102, (415) 923–2467.

Thomas M. Berliner, Deputy City Attorney, Office of the City Attorney, City and County of San Francisco, 206 City Hall, San Francisco, CA 94102, (415) 554–4295.

Sheila Hollis, Anita Wilson, Vinson & Elkins, Attorneys, 1455 Pennsylvania Avenue NW., Washington, DC 20004–1007.

i. *FERC Contact:* Ms. Deborah Frazier-Stutely (202) 219–2842.

j. *Comment Date:* December 14, 1992.

k. *Description of Project:* The applicant proposes to use the existing municipal water facilities including the Upper Alameda Diversion Dam and Tunnel, Calaveras reservoir and outlet works, and the Sunol Filtration Plant. The proposed project would consist of: (1) The 31-foot-high, 173-foot-long reinforced concrete Alameda Dam with a crest elevation at 915 feet; (2) a

spillway with a crest elevation at 900 feet; (3) an outlet tunnel discharging into; (4) the 1,435 acre Calaveras reservoir with a storage capacity of approximately one million acre-feet with crest elevation at 752.46 feet; (5) the 230-foot-high, 1,200-foot-long earth filled Calaveras dam with a crest elevation at 785 feet; (6) a spillway with a crest elevation at 752.46 feet; (7) an outlet tower; (8) a 1,075-foot-long tunnel; (9) 44-inch-diameter, 20,500-foot-long steel pipeline; (10) a powerhouse containing two generating units with a total installed capacity of 1,500 kW; (11) the Sunol Valley Water Treatment Plant; and (12) the 22-kV feeder line.

The applicant estimates the cost of the studies to be conducted under the preliminary permit would be $50,000. No new roads will be needed for the purpose of conducting these studies.

l. *Purpose of Project:* Project power would be used by the applicant and sold to a local utility.

m. This notice also consists of the following standard paragraphs: A5, A7, A9, A10, B, C, and D2.

13 a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 11316–000.

c. *Date Filed:* August 6, 1992.

d. *Applicant:* Iliamna-Newhalem-Nondalton Electric Cooperative, Inc.

e. *Name of Project:* Tazimina River.

f. *Location:* On the Tazimina River, in Lake and Peninsula Borough, Alaska. Township 3 S, Range 32 W, and Sections 24–27, and 34 and Township 4 S, Range 32 W, Sections 3, 9, 10, 13, and 16–18.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791(a)–825(r).

h. *Applicant contact:* Mr. T. M. Olsen, Iliamna-Newhalen-Nondalton, Electric Cooperative, Inc., P.O. Box 210, Iliamna, AK 99606, (907) 571–1259.

i. *FERC Contact:* Michael Spencer at (202) 219–2846.

j. *Comment Date:* December 14, 1992.

k. *Description of Project:* The project would consist of: (1) A concrete drop intake structure at elevation 570 feet msl; (2) 4-foot-diameter, 240-foot-long penstock; (3) a powerhouse containing two generating units with a combined capacity of 700 kW and an average annual generation of 3.0 GWh; (4) a 120-foot-long tailrace; (5) a 9-mile-long transmission line; and (6) a 9-mile-long access road.

No new access road will be needed to conduct the studies. The applicant estimates that the cost of the studies to be conducted under the preliminary permit would be $250,000.

l. *Purpose of Project:* Project power would be sold.

m. This notice also consists of the following standard paragraphs: A5, A7, A9, A10, B, C, and D2.

14 a. *Type of Application:* Major New License (Tendered Notice).

b. *Project No.:* 2705–003.

c. *Date filed:* September 30, 1992.

d. *Applicant:* Seattle City Light.

e. *Name of Project:* Newhalem Creek.

f. *Location:* On Newhalem Creek in Whatcom County, Washington, wholly within the Ross Lake National Recreation Area.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Roberta Palm Bradley, Acting Superintendent, Seattle City Light, 1015 Third Avenue, Seattle, WA 98104–1198, (206) 684–3200.

i. *FERC Contact:* James Hunter at (202) 219–2839.

j. *Description of Project:* The existing project consists of a diversion and intake structure, water conveyances, a powerhouse containing a 2.3–MW generating unit, a transmission line, and other appurtenant facilities. The project produces an average annual output of 18 GWh.

k. Under § 4.32(b)(7) of the Commission's regulations (18 CFR), if any resource agency, Indian Tribe, or person believes that the applicant should conduct an additional scientific study to form an adequate, factual basis for a complete analysis of this application on its merits, they must file a request for the study with the Commission, not later than November 30, 1992, and must serve a copy of the request on the Applicant.

Standard Paragraphs

A2. Development Application—Any qualified applicant desiring to file a competing application must submit to the Commission, on or before the specified deadline date for the particular application, a competing development application, or a notice of intent to file such an application. Submission of a timely notice of intent allows an interested person to file the competing development application no later than 120 days after the specified deadline date for the particular application. Applications for preliminary permits will not be accepted in response to this notice.

A4. Development Application—Public notice of the filing of the initial development application, which has already been given, established the due date for filing competing applications or notices of intent. Under the Commission's regulations, any competing development application must be filed in response to and in compliance with public notice of the initial development application. No competing applications or notices of intent may be filed in response to this notice.

A5. Preliminary Permit—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with CFR 4.30(b)(1) and (9) and 4.36.

A7. Preliminary Permit—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b)(1) and (9) and 4.36.

A9. Notice of intent—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

A10. Proposed Scope of Studies under Permit—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development to construct and operate the project.

B. Comments Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to

intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

B1. Protests or Motions to Intervene—Anyone may submit a protest or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, 385.211, and 385.214. In determining the appropriate action to take, the Commission will consider all protests filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any protects or motions to intervene must be received on or before the specified deadline date for the particular application.

C. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NW., Washington, DC 20426. An additional copy must be sent to Director, Division of Project Review, Federal Energy Regulatory Commission, Room 1027, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

D2. Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the applicant's representatives.

D8. Filing and Service of Responsive Documents—The application is not ready for environmental analysis at this time; therefore, the Commission is not now requesting comments, recommendations, terms and conditions, or prescriptions.

When the application is ready for environmental analysis, the Commission will issue a public notice requesting comments, recommendations, terms and conditions, or prescriptions.

All fillings must (1) bear in all capital letters the title "PROTEST" or "MOTION TO INTERVENE," "NOTICE OF INTENT TO FILE COMPETING APPLICATION," or "COMPETING APPLICATION;" (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. Agencies may obtain copies of the application directly from the applicant. Any of these documents must be filed by providing the original and the number of copies required by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. An additional copy must be sent to Director, Division of Project Review, Office of Hydropower Licensing, Federal Energy Regulatory Commission, Room 1027, at the above address. A copy of any protest or motion to intervene must be served upon each representative of the applicant specified in the particular application.

D10. Filing and Service of Responsive Documents—The application is ready for environmental analysis at this time, and the Commission is requesting comments, reply comments, recommendations, terms and conditions, and prescriptions.

The Commission directs, pursuant to section 4.34(b) of the regulations (see Order No. 533 issued May 8, 1991, 56 FR 23108, May 20, 1991) that all comments, recommendations, terms and conditions and prescriptions concerning the application be filed with the Commission within 60 days from the issuance date of this notice. (December 7, 1992 for Project No. 10615–001). All reply comments must be filed with the Commission within 105 days from the date of this notice. (January 21, 1993 for Project No. 10615–001).

Anyone may obtain an extension of time for these deadlines from the Commission only upon a showing of good cause or extraordinary circumstances in accordance with 18 CFR 385.2008.

All filings must (1) bear in all capital letters the title "COMMENTS" "REPLY COMMENTS", "RECOMMENDATIONS," "TERMS AND CONDITIONS," or "PRESCRIPTIONS;" (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person submitting the filing; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, recommendations, terms and conditions or prescriptions must set forth their evidentiary basis and otherwise comply with the requirements of 18 CFR 4.34(b). Agencies may obtain copies of the appplication directly from the applicant. Any of these documents must be filed by providing the original and the number of copies required by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426. An additional copy must be sent to Director, Division of Project Review, Office of Hydropower Licensing, Federal Energy Regulatory Commission, room 1027, at the above address. Each filing must be accompanied by proof of service on all persons listed on the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b), and 385.2010.

E. Filing and Service of Responsive Documents—The application is not ready for environmental analysis at this time; therefore, the Commission is not now requesting comments, recommendations, terms and conditions, or prescriptions. When the application is ready for environmental analysis, the Commission will notify all persons on the service list and affected resource agencies and Indian tribes. If any person wishes to be placed on the service list, a motion to intervene must be filed by the specified deadline date herein for such motions. All resource agencies and Indian tribes that have official responsibilities that may be affected by the issues addressed in this proceeding, and persons on the service list will able to file comments, terms and conditions, and prescriptions within 60 days of the date the Commission issues a notification letter that the application is ready for an environmental analysis. All reply comments must be filed with the Commission within 105 days from the date of that letter.

All filings must (1) bear in all capital letters the title "Protest" or "Motion to Intervene;" (2) set forth in the heading the name of the applicant and the project number of the application to

which the filing responds; (3) furnish the name, address, and the telephone number of the person protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. Any of these documents must be filed by providing the original and the number of copies required by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426. An additional copy must be sent to Director, Division of Project Review, Office of Hydropower Licensing, Federal Energy Regulatory Commission, room 1027, at the above address. A copy of any protest or motion to intervene must be served upon each representative of the applicant specified in the particular application.

Dated: October 19, 1992, Washington, DC.

Lois D. Cashell,

Secretary

[FR Doc. 92-25811 Filed 10-22-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. JD93-00326T Oklahoma-28]

State of Oklahoma; NGPA Notice of Determination by Jurisdictional Agency Designating Tight Formation

October 19, 1992.

Take notice that on October 13, 1992, the Corporation Commission of the State of Oklahoma (Oklahoma) submitted the above-referenced notice of determination pursuant to § 271.703(c)(3) of the Commission's regulations, that the Peru Formation, specifically the Peru (Lower Jones) Sandstone, underlying portions of Lincoln and Oklahoma Counties qualifies as a tight formation under section 107(b) of the National Gas Policy Act of 1978. The designated area is described as follows:

Oklahoma County

Township 14 North, Range 1 East
Sections 19-36
Township 13 North, Range 1 East
Sections 1-12

Lincoln County

Township 14 North, Range 2 East
Sections 19-20 and 29-32
Township 13 North, Range 2 East
Sections 5-6

The notice of determination also contains Oklahoma's findings that the referenced portion of the Peru Formation meets the requirements of the Commission's regulations set forth in 18 CFR part 271.

The application for determination is available for inspection, except for material which is confidential under 18 CFR 275.206, at the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington DC 20426. Persons objecting to the determination may file a protest, in accordance with 18 CFR 275.203 and 275.204, within 20 days after the date this notice is issued by the Commission.

Lois D. Cashell,

Secretary.

[FR Doc. 92-25801 Filed 10-22-92; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 10991-001 Oregon]

Russell Canyon Corp.; Notice of Surrender of Preliminary Permit

October 19, 1992.

Take notice that Russell Canyon Corporation, permittee of the Tule Valley Pumped Storage Project No. 10991, has requested that its permit be terminated. The permit was issued March 20, 1992. The project would have been located on the Highline canal in Klamath County, Oregon, on lands administered by the Bureau of Land Management.

The permittee filed the request on August 21, 1992, and the permit for Project No. 10991 shall remain in effect through the thirtieth day after issuance of this notice unless that day is a Saturday, Sunday, or holiday as described in 18 CFR 385.2007, in which case the permit shall remain in effect through the first business day following that day. New applications involving this project site, to the extent provided for under 18 CFR part 4, may be filed on the next business day.

Lois D. Cashell,

Secretary.

[FR Doc. 92-25807 Filed 10-22-92; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 10971-001 Oregon]

Russell Canyon Corp.; Notice of Surrender of Preliminary Permit

October 19, 1992.

Take notice that Russell Canyon Corporation, permittee of the Langell Valley Pumped Storage Project No. 10971, has requested that its permit be terminated. The permit was issued March 20, 1992. The project would have been located on Lost River in Klamath County, Oregon.

The permittee failed the request on August 21, 1992, and the permit for Project No. 10971 shall remain in effect through the thirtieth day after issuance of this notice unless that day is a Saturday, Sunday, or holiday as described in 18 CFR 385.2007, in which case the permit shall remain in effect through the first business day following that day. New applications involving this project site, to the extent provided for under 18 CFR part 4, may be filed on the next business day.

Lois D. Cashell,

Secretary.

[FR Doc. 92-25806 Filed 10-22-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP92-224-001]

Northwest Pipeline Corp.; Notice of Change in FERC Gas Tariff

October 19, 1992

Take notice that on October 13, 1992, Northwest Pipeline Corporation (Northwest) tendered the following tariff sheet for filing and acceptance to be a part of its FERC Gas Tariff, First Revised Volume No. 1A, with an effective date of October 1, 1992:

Substitute Second Revised Sheet No. 419

Northwest states that the purpose of this filing is to revise Sheet No. 419 in compliance with the Commission's September 30, 1992 letter order in Docket No. RP92-224-000.

Northwest states that copies of the filing are being served on Northwest's jurisdictional customer list and affected state regulatory commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rule 211 of the Commission's Rules of Practice and Procedure 18 CFR 385.211. All such protests should be filed on or before October 26, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 92-25802 Filed 10-22-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RS92-46-000]

Pacific Gas Transmission Co.; Notice of Pre-Filing Conference

October 19, 1992.

Take notice that on Thursday, October 29, 1992, at 10 a.m., a conference will be convened in the above-captioned docket to discuss Pacific Gas Transmission Company's

(PGT) summary of its proposed plan for implementation of Order No. 636.

The conference will be held at the University Club which is located at 1135–16th Street NW., Washington, DC. Attendance at the conference, however, will not confer party status. For additional information, interested parties can call Lisa T. Long at (202) 208–2105 or Marilyn L. Rand at (202) 208–0327.

Lois D. Cashell,

Secretary.

[FR Doc. 92–25803 Filed 10–22–92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP93–16–000]

Panhandle Eastern Pipe Line Co., Notice of Application

October 19, 1992.

Take notice that on October 16, 1992, Panhandle Eastern Pipe Line Company (Panhandle), P.O. Box 1642, Houston, Texas 77001, filed in Docket No. CP93–16–000, an application pursuant to Section 7(b) of the Natural Gas Act for permission and approval to abandon a sales service provided to the City of La Cygne, Kansas (La Cygne), effective November 1, 1992, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Panhandle is requesting authorization to abandon firm sales service provided to La Cygne under Rate Schedule SG–3, as La Cygne has elected to terminate its firm sales service with Panhandle and covert to firm transportation service provided under Panhandle's Rate Schedule SCT, effective November 1, 1992. In order to coincide with the effective date of the converted transportation service, Panhandle is requesting a November 1, 1992 effective date for the abandonment of the SG–3 sales service.

Panhandle states in its application that its request for the abandonment authority sought herein should not be interpreted as a waiver of La Cygne's cost responsibilities to Panhandle for take-or-pay costs and any other costs properly attributable to La Cygne, and that the request herein is expressly conditioned and subject to the ultimate recovery by Panhandle of all such residual costs associated with the service to La Cygne.

Panhandle states that there are no facilities proposed to be abandon as a result of the authorization requested herein.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 29, 1992, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Panhandle to appear or be represented at the hearing.

Lois D. Cashell,

Secretary.

[FR Doc. 92–25810 Filed 10–22–92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TM93–1–18–000]

Texas Gas Transmission Corp.; Notice of Proposed Changes in FERC Gas Tariff

October 19, 1992.

Take notice that on October 14, 1992, Texas Gas Transmission Corporation (Texas Gas) tendered for filing the following revised tariff sheets to its FERC Gas Tariff, Original Volume No. 1, and FERC Gas Tariff, First Revised Volume No. 2–A:

Effective October 1, 1992

FERC Gas Tariff, Original Volume No. 1

First Revised Sixtieth Revised Sheet No. 10
First Revised Sixtieth Revised Sheet No. 10A
First Revised Forty-first Revised Sheet No. 11
First Revised Thirty-first Revised Sheet No. 11A
First Revised Thirty-first Revised Sheet No. 11B

FERC Gas Tariff, First Revised Volume No. 2–A

Fourth Revised Sheet No. 10A
Third Revised Sheet No. 10C
Fourth Revised Sheet No. 11

Effective November 1, 1992

FERC Gas Tariff, Original Volume No. 1

Substitute Sixty-first Revised Sheet No. 10
Substitute Sixty-first Revised Sheet No. 10A
Substitute Forty-second Revised Sheet No. 11
Substitute Thirty-second Revised Sheet No. 11A
Substitute Thirty-second Revised Sheet No. 11B

Texas Gas states that the revised tariff sheets are being filed pursuant to section 25 of the General Terms and Conditions of Texas Gas's FERC Gas Tariff, Original Volume No. 1 and section 21 of the General Terms and Conditions of Texas Gas's FERC Gas Tariff, First Revised Volume No. 2–A, which affords Texas Gas the right to recover the costs billed to Texas Gas by the Federal Energy Regulatory Commission via the FERC ACA Unit Charge method. Texas Gas states that the unit charge, as determined by the Commission is $.0023/Mcf ($.0022/MMBtu converted) as set forth on Texas Gas's Annual Charges Bill for fiscal year 1992, to be effective October 1, 1992.

Texas Gas states that the second set of tariff sheets listed above, filed to become effective November 1, 1992, shall substitute for the tariff sheets filed with the Commission on September 30, 1992, in Docket No. TQ93–2–18–000. Texas Gas states that tariff sheets correct the ACA Charge on the previous sheets filed.

Texas Gas states that copies of the revised tariff sheets are being mailed to Texas Gas's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with 18 CFR 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before October 26, 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 in the public reference room.

Lois D. Cashell,

Secretary

[FR Doc. 92-25804 Filed 10-22-92; 8:45 am]

BILLING CODE 6717-01-M

Office of Fossil Energy

[FE Docket No. 92-58-NG]

Fulton Cogeneration Assoc.; Blanket Authorization To Import Natural Gas From Canada

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of order.

SUMMARY: The Office of Fossil Energy of the Department of Energy gives notice that it has issued an order granting blanket authorization to Fulton Cogeneration Associates to import up to 9.1 Bcf of natural gas from Canada over a two-year period beginning on the date of first delivery.

A copy of this order is available for inspection and copying in the Office of Fuels Programs Docket Room, room 3F-056 at the above address. The docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC on October 19, 1992.

Charles F. Vacek,

Deputy Assistant Secretary for Fuels Programs, Office of Fossil Energy.

[FR Doc. 92-25783 Filed 10-22-92; 8:45 am]

BILLING CODE 6450-01-M

[FE Docket No. 92-107-NG]

GPM Gas Corp.; Order Granting Blanket Authorization To Export Natural Gas to Mexico

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of order.

SUMMARY: The Office of Fossil Energy of the Department of Energy gives notice that it has issued an order granting GPM Gas Corporation a blanket authorization to export up to 100 Bcf of natural gas to Mexico over a two-year period beginning on the date of first delivery.

A copy of this order is available for inspection and copying in the Office of Fuels Programs Docket Room 3F-056, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-9478. The docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC October 19, 1992.

Charles F. Vacek,

Deputy Assistant Secretary for Fuels Programs, Office of Fossil Energy.

[FR Doc. 92-25784 Filed 10-22-92; 8:45 am]

BILLING CODE 6450-01-M

[FE Docket No. 92-105-NG]

Redwood Resources Inc.; Order Granting Blanket Authorization to Import Natural Gas From Canada

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of order.

SUMMARY: The Office of Fossil Energy of the Department of Energy gives notice that it has issued an order granting Redwood Resources Inc. blanket authorization to import up to 50 Bcf of natural gas from Canada over a two-year term beginning on the date of first delivery.

A copy of this order is available for inspection and copying in the Office of Fuels Programs docket room, 3F-056, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-9478. The docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except federal holidays.

Issued in Washington, DC, October 19, 1992.

Charles F. Vacek,

Deputy Assistant Secretary for Fuels Programs, Office of Fossil Energy.

[FR Doc. 92-25785 Filed 10-22-92; 8:45 am]

BILLING CODE 6450-01-M

Office of Hearings and Appeals

Cases Filed During the Office of Hearings and Appeals

During the Week of September 11 through September 18, 1992, the appeals and applications for other relief listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of energy. Submissions inadvertently omitted from earlier lists have also been included.

Under DOE procedural regulations, 10 CFR part 205, any person who will be aggrieved by the DOE action sought in these cases may file written comments on the application with ten days of service of notice, as prescribed in the procedural regulations. For purposes of the regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, DC 20585.

Dated: October 19, 1992.

George B. Breznay,

Director, Office of Hearings and Appeals.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS

[Week of Sept. 11 to Sept. 18, 1992]

Date	Name and location of applicant	Case No.	Type of submission
Aug. 31, 1992	Chevron USA, Inc., Washington, DC	LRJ-0002	Protective order. *If Granted:* A Protective Order would be issued with respect to certain documents to be provided by Chevron to Philip Kalodner.
Sept. 15, 1992	Oxy USA, Inc., Washington, DC	LRH-0002	Request for evidentiary hearing. *If Granted:* An Evidentiary Hearing would be convened in connection with the Statement of Objections submitted by Oxy USA, Inc. in response to the March 1985 Proposed Remedial Order (Case No. LRO-0003) issued to Oxy USA, Inc.
Sept. 17, 1992	Doma Corporation and Don Martin, Washington, DC	LEF-0049	Implementation of special refund procedures. *If Granted:* The Office of Hearings and Appeals would implement Special Refund Procedures pursuant to 10 CFR, part 205, Subpart V, in connection with the July 25, 1985 Remedial Order entered into with Doma Corporation and Don Martin.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS—Continued

[Week of Sept. 11 to Sept. 18, 1992]

Date	Name and location of applicant	Case No.	Type of submission
Sept. 17, 1992	Lotus Petroleum, Inc., Lynn O., Castele & William T. Tootle, Washington, DC.	LEF-0051	Implementation of special refund procedures. *If Granted*: The Office of Hearings and Appeals would implement Special Refund Procedures pursuant to 10 CFR part 205, subpart V, in connection with the July 24, 1989 Consent Order entered into with William T. Tootle.
Do	Lunday-Thagard Oil Company, Washington, DC	LEF-0050	Implementation of special refund procedures. *If Granted*: The Office of Hearings and Appeal would implement Special Refund Procedures pursuant to 10 CFR part 205, subpart V, in connection with the August 17, 1982, U.S. Bankruptcy Court determination regarding the Lunday-Thagard Oil Company.
September 18, 1992	Greenpeace, Atlanta, Georgia	LFA-0240	Appeal of an information request denial. *If Granted*: The September 8, 1992 Freedom of Information Request Denial issued by the Office of Processing and Reactor Facilities, Defense Programs, would be rescinded, and Greenpeace would receive access to the Final Safety Analysis Defense Waste Processing Facility document.
Do	Gulf/McGraw-Edison Power Systems, Washington, DC.	RR300-201	Request for modification/rescission in the Gulf refund proceeding. *If Granted*: The September 14, 1989 Decision and Order (Case No. RF300-6548) would be modified regarding the firm's application for Refund submitted in the Gulf refund proceeding.
Do	Oxy USA, Inc., Washington, DC	LRD-0006	Motion for discovery. *If Granted*: Discovery would be granted to Oxy USA, Inc. in connection with the Statement of Objections submitted in response to the Proposed Remedial Order (Case No. LRO-0003) issued to Oxy USA, Inc.

REFUND APPLICATIONS RECEIVED

[Week of Sept. 11 to Sept. 18, 1992]

Date received	Name of refund proceeding/name of refund applicant	Case No.
09/18/92	Allied Oil Company.	RF339-14.
09/15/92	Raymond Earl Knaeble, Jr.	RF342-308.
09/11/92 thru 09/18/92.	Gulf Oil Refund Applications Received.	RF300-20539 thru RF300-20548.
09/11/92 thru 09/18/92.	Atlantic Richfield Applications Received.	RF304-13279 thru RF321-13289.
09/11/92 thru 09/18/92.	Crude Oil Refund Applications Received.	RF272-93853 thru RF272-93862.
09/11/92 thru 09/18/92	Texaco Oil Refund Applications Received.	RF321-19218 thru RF321-19258.

[FR Doc. 92-25787 Filed 10-22-92; 8:45 am]

BILLING CODE 6450-01-M

Issuance of Decisions and Orders During the Week of September 7 through September 11, 1992

During the week of September 7 through September 11, 1992 the decisions and orders summarized below were issued with respect to appeals and applications for other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Appeal

William C. Adams, 09/08/92, LFA-0233

William C. Adams (Adams) filed an Appeal from a partial denial by the Department of Energy's (DOE) Oak Ridge Field Office of a Request for Information which Adams had submitted under the Freedom of Information Act (FOIA). In considering the Appeal, the DOE found that (1) the names of individuals that had been deleted from materials released to Adams were properly withheld under Exemption 6; (2) the search conducted by DOE for documents responsive to Adams' request was adequate; (3) DOE was not required to answer questions posed by Adams in his Appeal; and (4) Adams' initial request to alter certain DOE records was not ripe for administrative appeal and should be submitted to the appropriate Privacy Act Officer. For these reasons Adams' Appeal was denied.

Refund Applications

The Office of Hearings and Appeals issued the following Decisions and Orders concerning refund applications, which are not summarized. Copies of the full texts of the Decisions and Orders are available in the Public Reference Room of the Office of Hearings and Appeals.

Atlantic Richfield Company/Follmer Trucking Company.	RF304-13123	9/11/92
Atlantic Richfield Company/Truck World, Inc. *et al.*	RF304-13132	9/8/92
Baker School District 05].	RF272-80862	9/10/92
Gulf Oil Corp./Parker's Gulf *et al.*	RF300-13303	9/10/92
Gulf Oil Corp./William's Gulf *et al.*	RF300-16949	9/11/92
Shell Oil Company/Convent Shell *et al.*	RF315-8281	9/10/92
Shell Oil Company/Gerald Robichaud.	RF315-5405	9/10/92
Painter's Road Shell	RF315-10219	.....
Shell Oil Company/The Henley-Lundgren Company.	RF315-7883	9/11/92
Texaco Inc./C. Bruce Thomas Texaco *et al.*	RF321-9870	9/8/92
Texaco Inc./Chesapeake Corp. *et al.*	RF321-2847	9/11/92
Texaco Inc./Conoco Inc.	RF321-13569	9/10/92
Texaco Inc./Four Seasons Texaco *et al.*	RR321-2	9/8/92
Texaco Inc./Hensley Skyway Texaco Service *et al.*	RF321-10465	9/10/92
Texaco Inc./Taylor's Tire Service *et al.*	RF321-3011	9/10/92
United Refining Company/Stewart P. Wilson, Inc.	RF333-9	9/8/92

Dismissals

The following submissions were dismissed:

Name	Case No.
Bayou Boeuf Corp	RF321-15882
Ferek's Arco	RF304-8740
Jenkins Gulf	RF300-16385
Manzer Petroleum Company	RF321-5965
Tony Tannous	RF304-10785

Name	Case No.
Walker Oil Co., Inc.	RF313-333

Copies of the full text of these decisions and orders are available in the Public Reference Room of the Office of Hearings and Appeals, room 1E-234, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, Monday through Friday, between the hours of 1 p.m. and 5 p.m. except federal holidays. They are also available in Energy Management: Federal Energy Guidelines, a commercially published loose leaf reporter system.

Dated: October 19, 1992.

George B. Breznay,

Director, Office of Hearings and Appeals.

[FR Doc. 92-25788 Filed 10-22-92; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[FRL-4526-2]

Public Water System Supervision Program Revision for the State of Colorado

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Public notice is hereby given in accordance with the provisions of section 1413 of the Safe Drinking Water Act as amended, 42 U.S.C. 300f et seq., and 40 CFR part 142, subpart B, the National Primary Drinking Water Regulations (NPDWR), that the State of Colorado has revised its Public Water System Supervision (PWSS) Primacy Program. Colorado's PWSS program, administered by the Colorado Department of Health, has adopted (March 1991) regulations for filtration, disinfection, turbidity, *Giardia Lamblia*, viruses, Legionella and heterotrophic bacteria that correspond to the NPDWR for filtration, disinfection, turbidity, *Giardia Lamblia*, viruses, Legionella and heterotrophic bacteria promulgated by EPA on June 29, 1989 (54 FR 27486-541). The Environmental Protection Agency (EPA) has completed their review of Colorado's primacy revisions.

EPA has determined that the current version of Colorado's primacy revisions substantially meets the requirements of the federal rules. However, there are some minor deficiencies which need to be corrected before EPA can grant approval. The changes needed to correct these minor deficiencies are written into a Memorandum of Agreement (MOA) between EPA and Colorado (available at the state and EPA offices listed at the end of this notice). Colorado will incorporate the changes into their final regulation no later than December 31, 1994. Upon receipt of Colorado's revised final regulation by this date, EPA will grant formal approval of Colorado's primacy revisions without further solicitation of public input.

Any interested parties are invited to submit written comments on this determination, and may request a public hearing on or before November 23, 1992. If a public hearing is requested and granted, this determination shall not become effective until such time following the hearing that the Regional Administrator issues an order affirming or rescinding this action.

Requests for a public hearing should be addressed to: Jack W. McGraw, Acting Regional Administrator, U.S. Environmental Protection Agency, Region VIII, 999 18th Street, suite 500, Denver, CO 80202-2466.

Frivolous or insubstantial requests for a hearing may be denied by the Regional Administrator. However, if a substantial request is made within thirty (30) days after this notice, a public hearing will be held.

Any request for a public hearing shall include the following:

(1) The name, address, and telephone number of the individual organization, or other entity requesting a hearing;

(2) A brief statement of the requesting person's interest in the Regional Administrator's determination and of information that the requesting person intends to submit at such hearing; and

(3) The signature of the individual making the request, or, if the request is made on behalf of an organization or other entity, the signature of the responsible official of the organization or other entity.

Notice of any hearing shall be given not less than fifteen (15) days prior to the time scheduled for the hearing. Such notice will be made by the Regional Administrator in the **Federal Register** and in newspapers of general circulation in the State of Colorado. A notice will also be sent to the person(s) requesting the hearing as well as to the State of Colorado. The hearing notice will include a statement of purpose, information regarding time and location, and the address and telephone number where interested persons may obtain further information. The Regional Administrator will issue an order affirming or rescinding his determination upon review of the hearing record. Should the determination be affirmed, it will become effective as of the date of the order.

Should no timely and appropriate request for a hearing be received, and the Regional Administrator does not elect to hold a hearing on his own motion, this determination shall become effective on November 23, 1992. Please bring this notice to the attention of any persons known by you to have an interest in this determination.

All documents relating to this determination are available for inspection at the following locations:

(1) U.S. EPA Region VIII, Drinking Water Branch, 999 18th Street (4th floor), Denver, Colorado;

(2) Colorado Department of Health, 4210 East 11th Avenue, room 350, Denver, Colorado 80220.

FOR FURTHER INFORMATION CONTACT: Bob Clement, Drinking Water Branch, EPA Region VIII, 8WM-DW, 999 18th Street, suite 500, Denver, Colorado 80202-2466, telephone (303) 293-1413.

Dated: October 16, 1992.

Jack W. McGraw,

Acting Regional Administrator, EPA, Region VIII.

[FR Doc. 92-25765 Filed 10-22-92; 8:45 am]

BILLING CODE 6560-50-M

[FRL-4526-3]

Public Water System Supervision Program Revision for the State of South Dakota

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Public notice is hereby given in accordance with the provisions of section 1413 of the Safe Drinking Water Act as amended, 42 U.S.C. 300f et seq., and 40 CFR part 142, subpart B, the National Primary Drinking Water Regulations (NPDWR), that the State of South Dakota has revised its Public Water System Supervision (PWSS) Primacy Program. South Dakota's PWSS program, administered by the South Dakota Department of Environment and Natural Resources (DENR), has adopted (May 1991) regulations for total coliforms, filtration, disinfection, turbidity, *Giardia Lamblia*, viruses, Legionella and heterotrophic bacteria that correspond to the NPDWR for total coliforms, filtration, disinfection, turbidity, *Giardia Lamblia*, viruses, Legionella and heterotrophic bacteria promulgated by EPA on June 29, 1989 54 FR 27544-568 and 54 FR 27486-541). The Environmental Protection Agency (EPA)

has completed their review of South Dakota's primacy revisions.

EPA has determined that the current version of South Dakota's primacy revisions substantially meets the requirements of the federal rules. However, there are some minor deficiencies which need to be corrected before EPA can grant approval. The changes needed to correct these minor deficiencies are written into a Memorandum of Agreement (MOA) between EPA and South Dakota (available at the state and EPA offices listed at the end of this notice). South Dakota will incorporate the changes into their final regulation no later than December 31, 1994. Upon receipt of South Dakota's revised final regulation by this date, EPA will grant formal approval of South Dakota's primacy revisions without further solicitation of public input.

Any interested parties are invited to submit written comments on this determination, and may request a public hearing on or before November 23, 1992. If a public hearing is requested and granted, this determination shall not become effective until such time following the hearing that the Regional Administrator issues an order affirming or rescinding this action.

Requests for a public hearing should be addressed to: Jack W. McGraw, Acting Regional Administrator, U.S. Environmental Protection Agency, Region VIII, 999 18th Street, suite 500, Denver, CO 80202-2466.

Frivolous or insubstantial requests for a hearing may be denied by the Regional Administrator. However, if a substantial request is made within thirty (30) days after this notice, a public hearing will be held.

Any request for a public hearing shall include the following: (1) The name, address, and telephone number of the individual, organization, or other entity requesting a hearing; (2) a brief statement of the requesting person's interest in the Regional Administrator's determination and of information that the requesting person intends to submit at such hearing; and (3) the signature of the individual making the request, or, if the request is made on behalf of an organization or other entity, the signature of the responsible official of the organization or other entity.

Notice of any hearing shall be given not less than fifteen (15) days prior to the time scheduled for the hearing. Such notice will be made by the Regional Administrator in the **Federal Register** and in newspapers of general circulation in the State of South Dakota. A notice will also be sent to the person(s) requesting the hearing as well as to the State of South Dakota. The hearing notice will include a statement of purpose, information regarding time and location, and the address and telephone number where interested persons may obtain further information. The Regional Administrator will issue an order affirming or rescinding his determination upon review of the hearing record. Should the determination be affirmed, it will become effective as of the date of the order.

Should no timely and appropriate request for a hearing be received, and the Regional Administrator does not elect to hold a hearing on his own motion, this determination shall become effective on November 23, 1992. Please bring this notice to the attention of any persons known by you to have an interest in this determination.

All documents relating to this determination are available for inspection at the following locations:

(1) U.S. EPA Region VIII, Drinking Water Branch, 999 18th Street (4th floor), Denver, Colorado;

(2) South Dakota Department of Environment and Natural Resources, Joe Foss Building, 523 East Capitol, Pierre, South Dakota 57501-3181.

FOR FURTHER INFORMATION CONTACT: Marty Swickard or Bob Clement, Drinking Water Branch, EPA Region VIII 8WM-DW, 999 18th Street, suite 500, Denver, Colorado 80202-2466, telephone (303) 293-1413.

Dated: October 16, 1992.

Jack W. McGraw,

Acting Regional Administrator, EPA, Region VIII.

[FR Doc. 92-25766 Filed 10-22-92; 8:45 am]

BILLING CODE 6560-50-M

[ER-FRL-4525-8]

Environmental Impact Statements; Availability

Responsible Agency: Office of Federal Activities, General Information (202) 260-5076 OR (202) 260-5075.

Availability of Environmental Impact Statements Filed October 12, 1992 Through October 16, 1992 Pursuant to 40 CFR 1506.9.

EIS No. 920403, Draft Supplement, IBR, NM, CO, Animas-La Plata Project, Additional Information concerning Agricultural, Municipal and Industrial Water Supplies, Animas and La Plata Rivers, San Juan County, NM and La Plata and Montezuma Counties, CO, *Due:* December 15, 1992, *Contact:* Darrell Cauley (303) 236-0511.

EIS No. 920404, Draft EIS, BLM, CA, Hollister Oil and Gas Leasing, Land and Resource Management Plan Amendment, Implementation and Applications for Permits to Drill, Bakersfield District, Monterey, San Benito, Fresno, Madera and Merced Counties, CA, *Due:* January 15, 1993, *Contact:* Steve Addington (408) 637-8183.

EIS No. 920405, Final EIS, BLM, NM, Mimbres Resource Area Management Plan, Implementation, La Cruces District, Dona Ana, Luna, Grant and Hidalgo Counties, NM, *Due:* November 23, 1992, *Contact:* Jon Joseph (505) 525-8228.

EIS No. 920406, Draft EIS, AFS, AK, Central Prince of Wales Ketchikan Pulp Long-Term Timber Sale, Implementation, Tongass National Forest, Prince of Wales Island, AK, *Due:* December 7, 1992, *Contact:* David Arrasmith (907) 225-3101.

EIS No. 920407, Draft EIS, FHW, AR, Newport/US 63/US 67 Construction, Newport to Walnut Ridge/Hoxie, Funding and COE Section 404 Permit, Jackson, Lawrence, Craighead and Poinsett Counties, AR, *Due:* December 7, 1992, *Contact:* Carl Kraehmer (501) 324-6430.

EIS No. 920408, Draft EIS, FHW, WI, US 151/Fond du Lac Bypass Construction, US 151 and CTH "D" to US 151 and WI-149, Funding, Fond du Lac County, WI, *Due:* December 08, 1992, *Contact:* Robert Cooper (608) 264-5940.

EIS No. 920409, Draft Supplement, COE, WA, ID, OR, 1992 Columbia/Snake Rivers Salmon Flow Measures, Updated Information concerning Water Management Activities, Implementation, WA, ID and OR, *Due:* December 7, 1992, *Contact:* Peter Poolman (509) 522-6619.

EIS No. 920410, Draft Supplement, FHW, MN, TH-610 Construction, I-94 in Maple Grove to TH-252 in Brooklyn Park, Additional Funding and COE Section 404 Permit, Hennepin County, MN, *Due:* December 7, 1992, *Contact:* James McCarthy (612) 290-3230.

EIS No. 920411, Draft EIS, UAF, SC, Myrtle Beach Air Force Base Disposal and Reuse, Implementation, Horry County, SC, *Due:* December 7, 1992, *Contact:* Lt. Col. Gary Baumgartel (512) 536-3869.

Dated: October 20, 1992.

William D. Dickerson,

Deputy Director, Office of Federal Activities.

[FR Doc. 92-25719 Filed 10-22-92; 8:45 am]

BILLING CODE 6560-50-M

[ER-FRL-4525-9]

Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared October 5, 1992 through October 9, 1992 pursuant to the Environmental Review Process (ERP), under section 309 of the Clean Air Act and section 102(2)(c) of the National Environmental Policy Act as amended. Requests for copies of EPA comments can be directed to the Office of Federal Activities at (202) 260-5076.

An explanation of the ratings assigned to draft environmental impact statement (EISs) was published in FR dated April 10, 1992 (57 FR 12499).

Draft EISs

ERP No. D-AFS-L65173-OR Rating EC2, Buzzard Project Area Timber Sale and Road Construction, Implementation, Umatilla National Forest, Walla Walla Ranger District, Union and Wallowa Counties, OR.

Summary

EPA had environmental concerns regarding the effect of the action alternatives on water quality, fisheries, and air quality. Additional information is needed on water quality, watershed monitoring, air quality effects, endangered species, and noise effects.

ERP No. D-BOP-F81019-OH Rating EC2, Elkton Federal Correction Complex, Construction and Operation, Site Selection, Columbiana, Carroll or Portage County, OH.

Summary

EPA expressed environmental concerns regarding potential impacts to wetlands, a state designated wild and scenic river, impacts to wildlife habitat and habitat for state endangered species, and prime agricultural land.

ERP No. D-GSA-F81018-IL Rating EO2, Hammond Federal Building and U.S. Courthouse Construction and Site Selection, Implementation, Lake County, IL.

Summary

EPA expressed environmental objections based upon insufficient information regarding the alternative analysis potential impacts to wetlands, demolition and construction activity impacts, and impacts resulting from the projected increase in solid waste and sewage. EPA also, specifically requested information regarding hazardous waste issues at the selected site.

ERP No. D-UAF-H11002-MO Rating LO1, B-2 Advanced Technology Bomber, A/OA-10 Thunderbolt and T-38 Talon Jet Trainer Aircrafts Basing at Whiteman Air Force Base, Implementation, Johnson County, MO.

Summary

EPA had no objections to the project as proposed.

ERP No. DS-AFS-J65164-MT Rating LO, Flathead National Forest Land and Resource Management Plan Amendment No. 10, Open Road Density Standard for Non-Wilderness Portion of the Forest, Implementation, Flathead, Lake, Lincoln and Missoula Counties, MT.

Summary

EPA had no objections to the proposed Forest Plan amendment.

Final EISs

ERP No. F-AFS-F02020-OH, Wayne National Forest, Land and Resource Management Plan, Amendment Determination of Lands Suitable for Oil and Gas Leasing and COE Section 404 Permit, Several Counties, OH.

Summary

EPA continued to have environmental concerns with the proposed action. Those concerns include the need to attenuate the noise produced by the oil wells, the requirement for remedial cleanups of contaminated groundwater and surface water, and the need to apply mitigation measures to currently existing sources of sedimentation. To satisfy these concerns, EPA recommends phasing in newer gasoline engines and electric engines to replace the older engines, requiring stringent noise standards, conduct ongoing treatments to improve water quality, and implement mitigation measures in the Forest where erosion and sedimentation are a problem.

ERP No. F-COE-K36100-HI, Kawainui Marsh Flood Control Project, Coconut Grove Residential Area, Implementation, Island or Oahu, City and County of Honolulu, HI.

Summary

Review of the Final EIS was not deemed necessary. No formal comment letter was sent to the preparing agency.

ERP No. F-FHW-H40141-MO U.S. 71 Improvement, I-144 to Arkansas State Line, Funding and Section 404 Permit, Jasper, Newton and McDonald Counties, MO.

Summary

EPA expressed concerns for the selected alternative and requested that consideration be given to a combination of the east and west route.

ERP No. F-IBR-L28005-OR, Milltown Hill Project, Dam and Reservoir Construction and Operation, Funding and Implementation, Elk Creek Subbasin, Umpqua River Basin, Douglas County, OR.

Summary

EPA continued to have environmental concerns with the preferred alternative based on adverse impacts to water quality, fish, wildlife, and wetlands. EPA requested that the Record of Decision prohibit any construction activities until detailed mitigation and monitoring plans are completed.

ERP No. F-UAF-H10003-MO, Whiteman Air Force Base (AFB) Minuteman II of the 351st Missile Wing Deactivation, Implementation, Johnson County, MO.

Summary

After review of the Final EIA, EPA felt that our comments on the DEIS had been adequately addressed.

ERP No. FS-COE-A35046-IA, Perry Creek Flood Control Project, Construction of Channelization and Conduit Systems, Implementation, Sioux City, Woodbury County, IA.

Summary

Review of the Final EIA has been completed and the project found to be satisfactory. No formal letter was sent to the preparing agency.

Dated: October 20, 1992.

William D. Dickerson,

Deputy Director, Office of Federal Activities.

[FR Doc. 92-25718 Filed 10-22-92; 8:45 am]

BILLING CODE 6560-50-M

[FRL-4526-4]

Remediation Technologies Focus Group of the Technology Innovation and Economics Committee, National Advisory Council for Environmental Policy and Technology (NACEPT); Open Meeting

Under Public Law 92-463 (The Federal Advisory Committee Act), EPA gives notice of a meeting of the Remediation Technologies Focus Group of the Technology Innovation and Economics (TIE) Committee. The TIE Committee is a standing committee of the National Advisory Council for Environmental Policy and Technology (NACEPT), the external policy advisory committee to the Administrator of the EPA. The

meeting will convene at 1 p.m. on November 12th, and adjourn at 1 p.m. on November 13, 1992 in the Federal Room of the Doubletree Hotel located at 300 Army-Navy Drive, in Arlington, VA 22202.

This bi-annual meeting will discuss barriers to the use of innovative technologies at hazardous waste sites requiring remediation; how to have new technology accepted in the Record of Decision and/or design process; and recently published studies submitted to the Focus Group for discussion. Additionally, topics for discussion will be solicited for the next focus group meeting in May of 1993.

The November meeting will be open to the public.

Written comments submitted by November 1 will be received and considered by the Focus Group. Additional information about the meeting will be available, and may be obtained from Thomas De Kay at EPA, be calling 703/308-8798, or by written request by fax to 703/308-8528 or by mail to the above-address.

Dated: October 13, 1992.

Abby J. Pirnie,

NACEPT Designated Federal Official.

[FR Doc. 92-25767 Filed 10-22-92; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

Proposed Public Information Collection Requirement Submitted to Office of Management and Budget for Review

October 15, 1992.

The Federal Communications Commission has submitted the following proposed information collection requirement to the Office of Management and Budget for review and clearance under the Paperwork Reduction Act, as amended (44 U.S.C. 3504(h)).

Copies of this submission may be purchased from the Commission's copy contractor, Downtown Copy Center, 1990 M Street, NW., suite 640, Washington, DC 20036, (202) 452-1422. Persons wishing to comment on this information collection should contact Jonas Neihardt, Office of Management and Budget, room 3235 NEOB, Washington, DC 20503, (202) 395-4814. A copy of any comments should also be sent to the Federal Communications Commission, Information and Records Management Branch, room 416, 1919 M Street, NW., Washington, DC 20554. For further information contact Judy Boley, Federal Communications Commission, (202) 632-7513.

OMB Number: None.

Title: Revision of Radio Rules and Policies—Time Brokerage Ruling (MM Docket No. 91-140, Memorandum Opinion and Order and Notice of Proposed Rulemaking)

Action: New collection.

Response: On occasion reporting.

Estimated Annual Burden: 9 responses; 45 hours average burden per response; 405 hours total annual burden.

Need and Uses: On 8/5/92, the Commission adopted a Memorandum Opinion and Order (MO&O) in MM Docket No. 91-140, which further modified the national and local ownership limits adopted 3/12/92 in the Report and Order. Among other things, this proceeding will require parties that are unable to verify that a time brokerage agreement complies with the local ownership rules due to the absence of relevant audience share data to request a ruling from the commission (paragraph 68 of MO&O). This request should contain the same detailed information regarding market concentration as would be included in an assignment or transfer application. This would include: (1) Identification of the location and geographic coverage of the radio market involved; (2) the number of commercial AM and FM stations counted as being in the market, including contour maps that show those stations whose principal community service contours fall, in whole or in part, within the radio market; (3) for markets with 15 or more commercial radio stations, the basis and/or source material for the combined audience share figure, including the results and qualification of any commissioned audience survey or alternative showing used; and (4) the call letters and locations of all stations in the markets that are, or are proposed to be, commonly owned, operating or controlled, including any AM or FM station in the market for which the applicant or any party to the application brokers more than 15 percent of the station's broadcast time per week. The data are used by FCC staff to make a determination that the arrangement will not lead to excessive concentration in the market.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 92-25722 Filed 10-22-92; 8:45 am]

BILLING CODE 6712-01-M

[Report No. 1913]

Petitions for Reconsideration and Clarification, Motion for Stay and Application for Review of Actions in Rule Making Proceedings

October 19, 1992.

Petitions for reconsideration and clarification, motion for stay and application for review have been filed in the Commission rule making proceedings listed in this Public Notice and published pursuant to 47 CFR 1.429(e). The full text of these documents are available for viewing and copying in room 239, 1919 M Street, NW., Washington, DC, or may be purchased from the Commission's copy contractor Downtown Copy Center (202) 452-1422. Oppositions to these petitions, motion and application must be filed on or before November 9, 1992. See § 1.4(b)(1) of the Commission's rules (47 CFR 1.4(b)(1)). Replies to an opposition must be filed within 10 days after the time for filing oppositions has expired.

Subject: Amendment of § 73.202(b), Table of Allotments, FM Broadcast Stations. (Cordova, Holly Pond, Warrior, Eva, Fairview and Falkville, Alabama) (MM Docket No. 90-476, RM Nos. 7343, 7652, 7653 & 7654). Number of Petitions Filed: 2.

Subject: Amendment of § 73.202(b), Table of Allotments, FM Broadcast Stations. (Bishop and Benavides, Texas) (MM Docket No. 91-220, RM Nos. 7746 & 7842). Number of Petitions Filed: 1.

Subject: Amendment of part 90 of the Commission's Rules to Permit Exclusive-Use Systems to Conduct Secondary Fixed Signaling and Alarm Operations Without Conforming to the Provision of § 90.235. (PR Docket No. 91-322). Number of Petitions Filed: 1.

Motion for Stay

Subject: Amendment of § 73.202(b), Table of Allotments, FM Broadcast Stations. (Cordova, Holly Pond, Warrior, Eva, Fairview and Falkville, Alabama) (MM Docket No. 90-476, RM Nos. 7343, 7652, 7653 & 7654). Number of Motions Filed: 1.!

Application for Review

Subject: Amendment of § 73.202(b), Table of Allotments, FM Broadcast Stations. (Lima, Ohio; Muncie, Indiana; Rockford, Illinois and Grand Rapids, Michigan) (MM Docket No. 87-417, RM No. 5931). Number of Applications Filed: 1.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 92-25685 Filed 10-22-92; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL MARITIME COMMISSION

Security for the Protection of the Public; Financial Responsibility To Meet Liability Incurred for Death or Injury to Passengers or Other Persons on Voyages; Issuance of Certificate (Casualty)

Notice is hereby given that the following have been issued a Certificate of Financial Responsibility to Meet Liability Incurred for Death or Injury to Passengers or Other Persons on Voyages pursuant to the provisions of section 2, Public Law 89-777 (46 U.S.C. 817(d)) and the Federal Maritime Commission's implementing regulations at 46 CFR part 540, as amended:

Black Sea Shipping Company, c/o Odessa America Cruise Company, 170 Old County Road, suite 204, Mineola, New York 11501.

Vessel: Gruziya

Dated: October 13, 1992.

Joseph C. Polking,

Secretary.

[FR Doc. 92-25729 Filed 10-22-92; 8:45 am]

BILLING CODE 6730-01-M

Security for the Protection on the Public; Indemnification of Passengers for Nonperformance of Transportation; Issuance of Certificate (Performance)

Notice is hereby given that the following have been issued a Certificate of Financial Responsibility for Indemnification of Passengers for Nonperformance of Transportation pursuant to the provisions of section 3, Public Law 89-777 (46 U.S.C. 817(e)) and the Federal Maritime Commission's implementing regulations at 46 CFR part 540, as amended: Black Sea Shipping Company, c/o Odessa America Cruise Company, 170 Old County Road, Suite 204, Mineola, New York 11501.

Vessel: Cruziya

Dated: October 13, 1992.

Joseph C. Polking,

Secretary.

[FR Doc. 92-25731 Filed 10-22-92; 8:45 am]

BILLING CODE 6730-01-M

Security for the Protection of the Public; Indemnification of Passengers for Nonperformance of Transportation; Issuance of Certificate (Performance)

Notice is hereby given that the following have been issued a Certificate of Financial Responsibility for Indemnification of Passengers for Nonperformance of Transportation pursuant to the provisions of Section 3, Public Law 89-777 (46 U.S.C. 817(e)) and the Federal Maritime Commission's implementing regulations at 46 CFR part 540, as amended: Epirotiki Lines, Inc. and Aegean Cruises S.A., 551 Fifth Avenue, New York, N.W. 10176.

Vessel: Jason

Dated: October 8, 1992.

Joseph C. Polking,

Secretary.

[FR Doc. 92-25733 Filed 10-22-92; 8:45 am]

BILLING CODE 6730-01-M

Security for the Protection of the Public; Financial Responsibility to Meet Liability Incurred for Death or Injury to Passengers or Other Persons on Voyages; Issuance of Certificate (Casualty)

Notice is hereby given that the following have been issued a Certificate of Financial Responsibility to Meet Liability Incurred for Death or Injury to Passengers or Other Persons on Voyages pursuant to the provisions of section 2, Public Law 89-777 (46 U.S.C. 817(d)) and the Federal Maritime Commission's implementing regulations at 46 CFR part 540, as amended: Epirotiki Lines, Inc. and Aegean Cruises S.A., 551 Fifth Avenue, New York, N.Y. 10176.

Vessel: Jason

Dated: October 8, 1992.

Joseph C. Polking,

Secretary.

[FR Doc. 92-25734 Filed 10-22-92; 8:45 am]

BILLING CODE 6730-01-M

Security for the Protection of the Public; Financial Responsibility to Meet Liability Incurred for Death or Injury to Passengers or Other Persons on Voyages; Issuance of Certificate (Casualty)

Notice is hereby given that the following have been issued a Certificate of Financial Responsibility to Meet Liability Incurred for Death or Injury to Passengers or Other Persons on Voyages pursuant to the provisions of Section 2, Public Law 89-777 (46 U.S.C. 817(d)) and the Federal Maritime Commission's implementing regulations at 46 CFR part 450, as amended: Kloster Cruise Limited (d/b/a Norwegian Cruise Line) and Birka Line AB, 95 Merrick Way, Coral Gables, Florida 33134.

Vessel: Sunward

Dated: October 9, 1992.

Joseph C. Polking,

Secretary.

[FR Doc. 92-25732 Filed 10-22-92; 8:45 am]

BILLING CODE 6730-01-M

Security for the Protection of the Public; Indemnification of Passengers for Nonperformance of Transportation; Issuance of Certificate (Performance)

Notice is hereby given that the following have been issued a Certificate of Financial Responsibility for Indemnification of Passengers for Nonperformance of Transportation pursuant to the provisions of Section 3, Public Law 89-777 (46 U.S.C. 817(e)) and the Federal Maritime Commission's implementing regulations at 46 CFR part 540, as amended: Regency Cruises Inc. and Regency Maritime Corp., 260 Madison Avenue, New York, NY 10016.

Vessel: Regent Rainbow

Dated: October 16, 1992.

Joseph C. Polking,

Secretary.

[FR Doc. 92-25730 Filed 10-22-92; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Eagle Financial Services, Inc.; Application to Engage de novo in Permissible Nonbanking Activities

The company listed in this notice has filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of

Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than November 16, 1992.

A. Federal Reserve Bank of Richmond (Lloyd W. Bostian, Jr., Senior Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. Eagle Financial Services, Inc., Berryville, Virginia; to engage *de novo* through its subsidiary, The Johnson Williams Limited Partnership, Winchester, Virginia, in community development in the form of a 38.3 percent interest in a limited partnership, pursuant to § 225.25(b)(6) of the Board's Regulation Y. The partnership would refurbish a former school located in Berryville, Virginia, for the purpose of providing housing in the form of 40 apartment units to the low-income elderly. This activity would be conducted in the Virginia Counties of Clarke and Frederick and the City of Winchester, Virginia.

Board of Governors of the Federal Reserve System, October 19, 1992.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 92-25741 Filed 10-22-92; 8:45 am]

BILLING CODE 6210-01-F

Snyder Holding Company Corporation, et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than November 16, 1992.

A. Federal Reserve Bank of Cleveland (John J. Wixted, Jr., Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. Snyder Holding Company Corporation and F&A Financial Company to become bank holding companies by acquiring 26.54 percent of the voting shares of The Armstrong County Trust Company and 42 percent of the voting shares of The Farmers National Bank of Kittanning. All of these organizations are located in Kittanning, Pennsylvania.

B. Federal Reserve Bank of Richmond (Lloyd W. Bostian, Jr., Senior Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. FCFT, Inc., Princeton, West Virginia; to acquire 100 percent of the voting shares of Peoples Bank of Richwood, Richwood, West Virginia.

C. Federal Reserve Bank of Kansas City (John E. Yorke, Senior Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. Pine River Bank Corp., Bayfield, Colorado; to become a bank holding company by acquiring at least 90 percent of the voting shares of Pine River Valley Bank, Bayfield, Colorado.

D. Federal Reserve Bank of Dallas (W. Arthur Tribble, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. South Plains Delaware Financial Corporation, Dover, Delaware; to become a bank holding company by acquiring 100 percent of the voting shares of South Plains Financial Corporation, Dover, Delaware, Morton Financial Corporation, Morton, Texas, South Plains Bank, Levelland, Texas, and First State Bank, Morton, Texas.

2. South Plains Financial, Inc., Morton, Texas; to become a bank holding company by acquiring 100 percent of the voting shares of South Plains Delaware Financial Corporation, Dover, Delaware, South Plains Financial Corporation, Dover, Delaware, Morton Financial Corporation, Morton, Texas, South Plains Bank, Levelland, Texas, and First State Bank, Morton, Texas.

Board of Governors of the Federal Reserve System, October 19, 1992.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 92-25742 Filed 10-22-92; 8:45 am]

BILLING CODE 6210-01-F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Office of Family Assistance

Agency Information Collection Under OMB Review

ACTION: Notice.

Under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35), we have submitted to the Office of Management and Budget (OMB) a request for continued use of a currently approved information collection for the Office of Family Assistance of the Administration for Children and Families (ACF). This information collection report, Annual Statistical Report on Children in Foster Homes and Children Receiving AFDC Payments in Excess of the Poverty Income Level, was previously approved under OMB Control Number 0970-0004.

ADDRESSES: Copies of the Information Collection request may be obtained from Steve Smith, Office of Information Systems Management, ACF, by calling (202) 401-9235. Written comments and questions regarding the requested approval for information collection should be sent directly to: Kristina Emanuels, OMB Desk Officer for ACF, OMB Reports Management Branch, New Executive Office Building, room 3002, 725 17th Street, NW., Washington, DC 20503, (202) 395-7316.

Information on Document

Title: Annual Statistical Report on Children in Foster Homes and Children in Families Receiving AFDC Payments in Excess of the Poverty Income Level.

OMB No.: 0970-0004.

Description: This report is required annually of all State agencies administering or supervising administration of AFDC and child welfare programs, including the District of Columbia and Puerto Rico. This

information collection is authorized by section 1005 of chapter 1 of title 1, of the Elementary and Secondary Education Act (ESEA), as amended by Public Law 100–297. The statute requires that the Secretary of Health and Human Services shall determine: (1) The number of AFDC children aged five to seventeen, inclusive, from families above the poverty level, receiving income in excess of the current criteria of poverty used by the Bureau of the Census for a nonfarm family of four, and (2) The number of children aged five to seventeen, inclusive, that are being supported in foster homes with public funds.

Form ACF–4125 will be used by the State human services agency to collect caseload data for the month of October of the preceding fiscal year for children in foster homes supported with public funds, and children in families receiving annual AFDC payments in excess of the current poverty income level. This information will be submitted to the Office of Family Assistance, ACF, of the Department of Health and Human Services.

The statute requires that the Secretary of Health and Human Services shall collect this information and transmit it to the Secretary of Education by January 1 of each year. The Department of Education will use the information to compute grants for local education agencies to provide compensatory education services for educationally deprived children.

Annual Number of Respondents: 52.

Annual Frequency: 1.

Average Burden Hours Per Response: 6.

Total Burden Hours: 312.

Dated: October 9, 1992.

Naomi B. Marr,

Director, Office of Information Systems Management.

[FR Doc. 92–25790 Filed 10–22–92; 8:45 am]

BILLING CODE 4130–01–M

Public Health Service

Agency Forms Submitted to the Office of Management and Budget for Clearance

Each Friday the Public Health Service (PHS) publishes a list of information collection requests it has submitted to the Office of Management and budget (OMB) for clearance in compliance with the Paperwork Reduction Act (44 U.S.C. chapter 35). The following requests have been submitted to OMB since the list was last published on Friday, October 2, 1992.

(Call PHS Reports Clearance Office on 202–690–7100 for copies of requests)

1. Evaluation of a Comprehensive Hospital Information System—New—This survey will identify the strengths and limitations of the Comprehensive Hospital Information System of El Camino Hospital in increasing the quality and cost effectiveness of patient care. The survey will explore user satisfaction and attitudes about the system and useability and barriers to use of the system.. *Respondents:* Individuals and households; *Number of Respondents:* 540; *Number of Responses Per Respondent:* 1; *Average Burden Per Response:* .33 hours; *Estimated Annual Burden:* 178 hours.

2. Application for Correction of Public Health Service Commissioned Corps Records—0937–0095–An application is submitted by present and former PHS Commission Corps officers to request correction of an error or alleged injustice in their personnel records. The information submitted is used by the Board for Correction to determine if an error or injustice has occurred and to rectify such error or injustice. *Respondents:* Individuals or households, Federal agencies or employees; *Number of Respondents:* 25; *Number of Responses Per Respondent:* 1; *Average Burden Per Response:* 4 hours; *Estimated Annual Burden:* 100 hours.

3. Native American Family Systems and Community Strengths: Assessment of Patterns of Violence—New—The information collected will be used to determine patterns of violent behaviors and related variables across generations, to develop a culturally appropriate, community-based prevention model to reduce or eliminate violent behavior in American Indian families and communities. Respondents are members of American Indian families, and include three generations within each family. *Respondents:* Individuals or households; *Number of Respondents:* 240; *Number of Responses Per Respondent:* 1; *Average Burden Per Response:* 1.5 hours; *Estimated Annual Burden:* 360 hours.

4. Application for Temporary Marketing Permits, 21 CFR part 130–0910–0133–This voluntary regulation allows manufacturers to market test foods to gather data for the purpose of amending food standards. It allows for potential technological advances and economic savings while assuring product safety and is in the interest of consumers. *Respondents:* Businesses or other for-profit; *Number of Respondents:* 43; *Number of Responses Per Respondent:* 1.07; *Average Burden Per Response:* 9 hours; *Estimated Annual Burden:* 414 hours.

5. Variations in Management of Childbirth and Patient Outcomes—New—This research project will study the variations and correlates of specific diagnostic and treatment procedures used in managing labor and delivery. Of particular interest is the decision whether or not to deliver by Caesarean section, including the outcomes of that decision. The project will yield information to help improve medical care in childbirth, improve maternal and infant health, and reduce costs. *Respondents:* Individuals or households; *Number of Respondents:* 2,400; *Number of Responses Per Respondent:* 1; *Average Burden Per Response:* 0.916 hours; *Estimated Annual Burden:* 2,208 hours.

Desk Officer: Shannah Koss.

Written comments and recommendations for the proposed information collections should be sent within 30 days of this notice directly to the OMB Desk Officer designated above at the following address: Human Resources and Housing Branch, New Executive Office Building, room 3002, Washington, DC 20503.

Dated: October 15, 1992.

James Scanlon,

Director, Division of Data Policy, Office of Health Planning and Evaluation.

[FR Doc. 92–25507 Filed 10–22–92; 8:45 am]

BILLING CODE 4160–17–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Community Planning and Development

[Docket No. N–92–1917; FR–3350–N–02]

Federal Property Suitable as Facilities To Assist the Homeless

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: This notice identifies unutilized, underutilized, excess, and surplus Federal property reviewed by HUD for suitability for possible use to assist the homeless.

ADDRESSES: For further information, contact James N. Forsberg, room 7262, Department of Housing and Urban Development, 451 Seventh Street SW, Washington, DC 20410; telephone (202) 708–4300; TDD number for the hearing- and speech-impaired (202) 708–2565

(these telephone numbers are not toll-free), or call the toll-free title V information line at 1-800-927-7588.

SUPPLEMENTARY INFORMATION: In accordance with 56 FR. 23769 (May 24, 1991) and section 501 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411), as amended, HUD is publishing this Notice to identify Federal buildings and other real property that HUD has reviewed for suitability for use to assist the homeless. The properties were reviewed using information provided to HUD buy Federal landholding agencies regarding unutilized and underutilized buildings and real property controlled by such agencies or by GSA regarding its inventory of excess or surplus Federal property. This Notice is also published in order to comply with the December 12, 1988 Court Order in *National Coalition for the Homeless* v. *Veterans Administration*, No. 88-2503-OG (D.D.C.).

Properties reviewed are listed in this Notice according to the following categories: Suitable/available, suitable/unavailable, suitable/to be excess, and unsuitable. The properties listed in the three suitable categories have been reviewed by the landholding agencies, and each agency has transmitted to HUD:

(1) Its intention to make the property available for use to assist the homeless,

(2) Its intention to declare the property excess to the agency's needs; or

(3) A statement of the reasons that the property cannot be declared excess or made available for use as facilities to assist the homeless.

Properties listed as suitable/available will be available exclusively for homeless use for a period of 60 days from the date of this Notice. Homeless assistance providers interested in any such property should send a written expression of interest to HHS, addressed to Judy Breitman, Division of Health Facilities Planning, U.S. Public Health Service, HHS, room 17A-10, 5600 Fishers Lane, Rockville, MD 20857; (301) 443-2265. (This is not a toll-free number.) HHS will mail to the interested provider an application packet, which will include instructions for completing the application. In order to maximize the opportunity to utilize a suitable property, providers should submit their written expressions of interest as soon as possible. For complete details concerning the processing of applications, the reader is encouraged to refer to the interim rule governing this program, 56 FR 23789 (May 24, 1991).

For properties listed as suitable/to be excess, that property may, if subsequently accepted as excess by GSA, be made available for use by the homeless in accordance with applicable law, subject to screening for other Federal use. At the appropriate time, HUD will publish the property in a Notice showing it as either suitable/available or suitable/unavailable.

For properties listed as suitable/unavailable, the landholding agency has decided that the property cannot be declared excess or made available for use to assist the homeless, and the property will not be available.

Properties listed as unsuitable will not be made available for any other purpose for 20 days from the date of this Notice. Homeless assistance providers interested in a review by HUD of the determination of unsuitability should call the toll free information line at 1-800-927-7588 for detailed instructions or write a letter to James N. Forsberg at the address listed at the beginning of this Notice. Included in the request for review should be the property address (including zip code), the date of publication in the **Federal Register**, the landholding agency, and the property number.

For more information regarding particular properties identified in this Notice (i.e., acreage, floor plan, existing sanitary facilities, exact street address), providers should contact the appropriate landholding agencies at the following addresses: *U.S. Army:* Robert Conte, Dept. of Army, Military Facilities, DAEN-ZCI-P; rm. 1E671, Pentagon, Washington, DC 20310-2600; (703) 693-4583; *Corps of Engineers:* Bob Swieconek, Headquarters, Army Corps of Engineers, Attn: CERE-MM, room 4224, 20 Massachusetts Ave. NW., Washington, DC 20314-1000; (202) 272-1750; *U.S. Navy:* John J. Kane, Deputy Division Director, Dept. of Navy, Real Estate Operations, Naval Facilities Engineering Command, 200 Stovall Street, Alexandria, VA 22332-2300; (703) 325-0474; *GSA:* Ronald Rice, Federal Property Resources Services, GSA, 18th and F Streets NW., Washington, DC 20405; (202) 501-0067; *Dept. of Agriculture:* Marsha Pruitt, Realty Officer, USDA, South Bldg. rm 1566, 14th and Independence Ave. SW., Washington, DC 20250; (202) 447-3338; *Dept. of Transportation:* Ronald D. Keefer, Director, Administrative Services & Property Management, DOT, 400 Seventh St. SW., room 10319, Washington, DC 20590; (202) 366-4246; (These are not toll-free numbers).

Dated: October 16, 1992.

Paul Roitman Bardack,

Deputy Assistant Secretary for Economic Development.

Title V, Federal Surplus Property Program, Federal Register Report for 10/23/92

Suitable/Available Properties

Buildings (by State)

Hawaii

P-88
Aliamanu Military Reservation
Honolulu Co: Honolulu HI 96818-
Location: Approximately 600 feet from Main Gate on Aliamanu Drive.
Landholding Agency: Army
Property Number: 219030324
Status: Unutilized
Comment: 45,216 sq. ft., underground tunnel complex, pres. of asbestos clean-up required of contamination, use of respirator required by those entering property, use limitations.

Maine

Bldg. 523—Transmitter Site
Naval Air Station
East Brunswick Co: Cumberland ME 04011-
Landholding Agency: Navy
Property Number: 779230002
Status: Excess
Comment: 7,270 sq. ft., 1-story bldg., most recent use—storage, needs rehab on 66 acres of land.

Bldg. 524—Transmitter Site
Naval Air Station
East Brunswick Co: Cumberland ME 04011-
Landholding Agency: Navy
Property Number: 779230003
Status: Excess
Comment: 384 sq. ft., 1-story, most recent use—storage, needs rehab.

New Mexico

Former Post Office
4th & Mitchell
Clovis Co: Curry NM 88101-
Landholding Agency: GSA
Property Number: 549230005
Status: Excess
Comment: 9,225 sq. ft., 2-story concrete, brick & steel structure, good condition, pres. of asbestos, listed on National Register of Historic Places, most recent use—public library.
GSA Number: 7-GR-NM-478

Suitable/Unavailable Properties

Land (by State)

Hawaii

21.615 acres
Manana Housing Area
Pearl HI 96782-
Landholding Agency: GSA
Property Number: 549230001
Status: Excess
Comment: Predominantly steep cliffsides, subject to easements, buffer zone, land use restrictions.
GSA Number: 9-N-HI-566

Suitable/To Be Excessed

Buildings (by State)

Ohio

Michaels, Christine E. A–8881
T2NRSW part secs. 27 & 33
Co: Washington OH
Landholding Agency: Agriculture
Property Number: 159230001
Status: Unutilized
Comment: 1,104 sq. ft., 1-story frame residence, disconnected utilities, off-site removal only.

Land (by State)

Iowa

C Bar J Ranch
¼ mile south of River Rd. on Stagecoach Rd.
Ames Co: Story IA
Landholding Agency: Agriculture
Property Number: 159230002
Status: Unutilized
Comment: 24.5 acres w/bldgs.—animal, shops, barn, storage; wood and metal frames; potential utils.; limestone quarry approx. ¾ mi. north, perform some blasting; fenced area w/locked gate.

Ohio

Middleport Public Access Site
Gallipolis Locks & Dam
Middleport Co: Meigs OH 45760–
Landholding Agency: COE
Property Number: 319230001
Status: Underutilized
Comment: Approximately 17.23 acres including parking lot, flowage easement, right-of-way for city street and utilities.

Unsuitable Properties

Buildings (by State)

Massachusetts

Bldg. 4, USCG Support Center
Commercial Street
Boston Co: Suffolk MA 02203–
Landholding Agency: DOT
Property Number: 879240001
Status: Underutilized
Reason: Secured Area

[FR Doc. 92–25564 Filed 10–22–92; 8:45 am]

BILLING CODE 4210-29-M

DEPARTMENT OF THE INTERIOR

Office of the Secretary

Central Arizona Project (CAP) Water Allocations and Water Service Contracting With Indian Tribes

AGENCY: Office of the Secretary, Interior.

ACTION: Notice of final decision to modify CAP water allocation decisions.

SUMMARY: The purpose of this action is to provide final notice of the Department's decision to modify the existing CAP water allocation decisions by deleting the requirement for a substitute water provision in CAP water service contracts with Indian tribes. This action will facilitate removal of the substitute water provision from existing CAP water service contracts with tribes and communities and from the proposed CAP water service contract with the Gila River Indian Community (GRIC). The substitute water provision requires Indian contractors to take available non-potable effluent water or other water in lieu of CAP water under certain criteria intended to assure that there would be no diminution of the tribes' total allocation and no additional cost to the tribes. The proposal to also delete the requirement for the Winters rights crediting provision in Indian contracts is not included in this action. The Winters rights crediting provision remains in force.

FOR FURTHER INFORMATION CONTACT: Robert W. Johnson, Assistant Regional Director, Bureau of Reclamation, PO Box 61470, Boulder City, Nevada 89006–1470. Telephone (702) 293–8411.

SUPPLEMENTARY INFORMATION: Previous Department of the Interior notices of proposed and final decisions concerning CAP water allocations were published in the **Federal Register** (FR) at 37 FR 28082, December 20, 1972; 40 FR 17297, April 18, 1975; 41 FR 45883, October 18, 1976; 45 FR 52938, August 8, 1980; 45 FR 81265, December 10, 1980; 48 FR 12446, March 24, 1983; 56 FR 29704, June 28, 1991; and 57 FR 4470, February 5, 1992. The notices were published and the decisions were made pursuant to the authority vested in the Secretary by the Reclamation Act of 1902, as amended and supplemented (32 Stat. 388, 43 U.S.C. 391), the Boulder Canyon Project Act of December 21, 1928 (45 Stat. 1057), the Colorado River Basin Project Act of September 30, 1968 (82 Stat. 885, 43 U.S.C. 1501), the Regulations for Implementing the Procedural Provisions of the National Environmental Policy Act (NEPA) (40 CFR part 1505), the Implementing Procedures of the U.S. Department of the Interior (516 Department Manual [DM] 5.4), and in recognition of the Secretary's trust responsibility to Indian tribes.

On October 18, 1976 (41 FR 45888), Acting Secretary Frizzel published the Department's allocation of CAP water made on October 12, 1976, to Indian tribes in central Arizona (1976 Decision). Under the 1976 Decision, 257,000 acre-feet of CAP water per year was allocated to the tribes for use prior to year 2005. Under that decision, the amount of water allocated to Indians after year 2005 would be decreased to either 10 percent of the CAP supply or to 20 percent of the agricultural supply, whichever was to their advantage.

Subsequently, Secretary Andrus concluded that the abrupt reduction in the Indian water supply after year 2005 would mean that the economic growth permitted on the reservations in the early years of CAP operations would be temporary, and both the Government and the tribes would be faced with the costs of a return to depressed economic conditions. Also, Secretary Andrus believed that the Indian allocation should be increased because (1) some tribes that should have been allocated CAP water were not included in the 1976 Decision and (2) CAP water should be allocated to tribes in support of permanent tribal homelands.

Secretary Andrus recognized that by improving the Indian supply in later years of CAP operations, the position of the non-Indian municipal and industrial (M&I) users would be less favorable than under the 1976 Decision. Responding to suggestions by Governor Babbitt of Arizona, Secretary Andrus incorporated the substitute water provision into the CAP water allocation decision. On December 10, 1980 (45 FR 81265), Secretary Andrus published the Indian allocations of 309,828 acre-feet of CAP water per year to 10 Indian tribes in central Arizona (1980 Decision). The 1980 Decision stated in part:

> In an effort to make the M&I supply as dependable as possible, these allocations permit the substitution of non-CAP water for Indian CAP water, and provisions addressing such substitutions will be included in the Indian water service contracts.

That provision, commonly known as the "mandatory" substitute provision, was included in the 1980 Decision as a means of (1) firming the non-Indian M&I water supply in water shortage years and (2) ameliorating the concern of the non-Indian M&I entities that the increased allocation to the Indian tribes had occurred at the non-Indian M&I entities' expense. Substitute water was defined to include treated municipal effluent or other water suitable for agricultural use. On December 11, 1980, the Department executed CAP water service contracts with 9 of the 10 Tribes which had received an allocation of CAP water. The substitute water provision was included in the contracts offered to four tribes located in close proximity to municipal areas that were considered capable of taking delivery of municipal effluent in lieu of CAP water. Three of the tribes, the Salt River Pima-Maricopa Indian Community, the Ak-Chin Indian Community, and the Papago Tribe, now known as the Tohono O'odham Nation, executed CAP water service contracts containing the substitute water provision. The GRIC

had strong objections to the provision and elected not to sign the CAP water service contract offered at that time.

The substitute water provision provided that after the year 2005, up to one-half of the tribes' CAP water allocation could be exchanged. The substitution was to be accomplished under criteria intended to assure that the quality, quantity, suitability, and delivery facilities for the substitute water would be appropriate for the beneficial uses to which the water was to be put. All costs of the substitution were to be borne by the Central Arizona Water Conservation District (CAWCD) or the benefitting non-Indian subcontractor. The substitute water provision reserved to the Secretary the right to approve a substitution in the event that the Secretary determined, according to certain criteria, that the tribe was unreasonably withholding agreement to a proposed substitute water contract.

The 1980 Decision also provided that the allocation of CAP water would be credited against a tribe's Winters rights, as and when finally adjudicated or finally determined by Federal legislative action, and required that this stipulation be included in the Indian CAP water service contracts. The stipulation was included in all of the Indian contracts offered and executed, including the contract offered to GRIC.

Secretary Andrus did not allocate CAP water to non-Indian entities in the 1980 Decision. However, that decision facilitated the submission of recommendations by the Arizona Department of Water Resources (ADWR) to the Secretary for allocations of CAP water to non-Indian entities. On March 24, 1983 (48 FR 12446), Secretary Watt issued a CAP water allocation decision (1983 Decision) that allocated CAP Water to the non-Indian entities and reaffirmed Secretary Andrus's allocation to the Indian tribes with one significant modification. The 1983 Decision provided that GRIC would have to accept a 25 percent reduction in its CAP water allocation during shortage years in lieu of the 10 percent reduction that was required in the 1980 Decision. The 1983 Decision reaffirmed (1) the requirement for the substitute water provision in the contracts with Indian entities and (2) the allocation of water to Indian entities for tribal homeland purposes. The requirement for crediting the CAP allocation toward a tribe's Winters rights was not changed by the 1983 Decision.

Comments on the Proposed Modifications and Responses

On June 28, 1991 (56 FR 29704), Secretary Lujan published notice of proposed modifications to the CAP water allocation decisions and invited written comments from interested parties within 30 calendar days following the date of the notice. During the comment period, written comments were received from officials of ADWR, Salt River Project, CAWCD, municipalities, Indian tribes and communities, and non-Indian irrigation districts. The comments focused on (1) the substitute water provision and (2) crediting CAP water allocations against a tribe's Winters rights. A synopsis of the comments and concerns of each commenter on the proposed modifications and the Department's responses follow:

(1) City of Phoenix, July 25, 1991.

Comment 1–1: The City of Phoenix agrees with the reasons for deleting the mandatory substitute water provision from the Indian CAP contracts and believes that it is equally important to remove the provision from CAP M&I subcontracts that would penalize a subcontractor for entering into a direct effluent exchange with an Indian Community for CAP water.

Response 1–1: Over the last 10 years, circumstances have changed in central Arizona and the Department now believes that the requirement for a mandatory substitute water provision in the CAP water service contracts with the Indian tribes is no longer critical to management of water supplies in central Arizona. The Department acknowledges the city of Phoenix's concurrence with deletion of the mandatory substitute water provision from the Indian water service contracts.

The Department also acknowledges the city of Phoenix's concerns that the provisions of the effluent exchange article in the CAP M&I water service subcontracts may no longer be critical to management of water supplies in central Arizona. During the process of reallocating uncontracted M&I allocations and after consultation with ADWR, the Department will re-evaluate condition 4 of the 1983 Decision, which conditions a CAP M&I water allocation upon adoption of a pooling concept whereby all M&I allottees share in the benefits of effluent exchanges.

(2) Sparks & Siler, P.C. (San Carlos Apache Tribe; Tonto Apache Tribe; and Yavapai Apache Indian Community, Camp Verde Reservation), July 26, 1991.

Comment 2–1: The proposed modifications are unacceptable and will adversely impact vested contractual rights of the San Carlos, Tonto, and Camp Verde Tribes as well as other CAP tribes and CAP M&I contractors and subcontractors.

Response 2–1: The Department disagrees. See response 1–1 and the Bases for Decision.

Comment 2–2: It is inappropriate to presume that substitute water would necessarily be treated sewage water. The water is required to be of comparable quality, quantity, and suitability for the intended beneficial use, which is irrigation.

Response 2–2: The Department acknowledges that substitute water includes treated municipal effluent or other water suitable for irrigation.

Comment 2–3: It is inappropriate to conclude that because no substitute water has been proposed to GRIC in 10 years that none will be in the future.

Response 2–3: See response 1–1, and Bases of Decision (5).

Comment 2–4: Deleting the requirement of the 1980 Decision for crediting the CAP allocation against the Tribes' Winters rights will adversely affect vested rights of tribes with executed CAP contracts; tribes which have settled or are near settlement of their rights; and cause a strategic imbalance in the litigation positions of tribes (and other parties) who have developed legal positions since 1980 encompassing the crediting requirements of the 1980 Decision.

Response 2–4: The requirement for a Winters rights provision set forth in the 1980 Decision is retained and the provision is now included in the contract form approved for execution with the GRIC and will remain in all of the existing CAP water service contracts with Indian tribes. See the Summary and Bases for Decision.

(3) Ryley, Carlock, and Applewhite (Roosevelt Water Conservation District) (RWCD), July 23, 1991.

Comment 3–1: In the event the Winters right credit provision is deleted from the GRIC contract prior to the conclusion of a settlement with that community, RWCD is concerned that the GRIC will view its CAP contract as having no bearing upon the overall water budget for the settlement and that the GRIC will use the deletion of the credit provision as a basis for arguing for a water budget that does not account for the right to receive CAP water. The justifications for deletion of the provision are not persuasive.

Response 3–1: That requirement is retained. See the Summary, Response 2–4, and Bases for Decision.

Comment 3–2: RWCD urges reconsideration of the proposal to delete

the mandatory substitute water provision. At the minimum, public hearings should be held on the possible effects of the proposal.

Response 3–2: The Department disagrees. See Response 1–1 and the Bases for Decision. With respect to the need for public hearings, the Department is not convinced that any new or more persuasive information would be forthcoming from the public hearing forum. The written comments received on the June 28, 1991, notice of proposed modifications to the CAP water allocation decisions were comprehensive and thorough.

Comment 3–3: The deletion of the effluent exchange provisions in the Indian contracts may have fundamental impacts on both the non-Indian M&I pool and on the agricultural pool of the CAP.

Response 3–3: The Department disagrees. See Response 1–1 and the Bases for Decision.

(4) Jennings, Strouss & Salmon (Salt River Project), August 13, 1991.

Comment 4–1: The Salt River Project has played a significant role in resolving the water rights claim of the Salt River Pima-Maricopa Indian Community, the Fort McDowell Indian Community, and the San Carlos Apache Indian Tribe. In addition, the Salt River Project has been involved during the past two years in continuing negotiations to resolve the water rights claims of GRIC. The usage of CAP water, both the Community's present allocation and additional allocations of non-Indian agricultural and M&I supplies, continues to be a primary focus of attention in these negotiations. The Salt River Project urges the Department to proceed cautiously in proposing amendments to contracts that are the subjects of ongoing negotiations and to conduct public hearings on the proposed action before reaching a final decision.

Response 4–1: The Department acknowledges this concern. See Summary, Response 1-1, 2–4, 3–2, and Bases for Decision.

(5) CAWCD, July 29, 1991.

Comments 5–1: CAWCD opposes the Department's proposal to modify existing CAP water allocation decisions, the existing CAP water service contracts with Indian tribes, and the proposed water service contract with the GRIC. Neither (1) the requirements of the 1983 Allocation Decision and the CAP Indian contracts regarding the mandatory substitution of effluent for CAP water nor (2) the requirements of the 1980 Allocation Decision and Indian CAP contracts for the crediting of an Indian Community's CAP water allocation against its Winters rights should be modified or deleted without a comprehensive water rights settlement with the tribe or the Indian community concerned.

Responses 5–1(1): See Response 1–1 and the Bases for Decision. The Department believes that modification of the CAP water allocation decisions with respect to the requirement for the substitute water provision in Indian water service contracts is unrelated to Indian water rights settlement negotiations; the contract requirements set forth in the allocation decisions are the same for all tribes contracting for CAP water service; the well-established authorities and procedures under Reclamation law for contracting with the tribes for the delivery of CAP water are independent of the water rights settlement process; and there is nothing to indicate that the substitute water provision is of such significance to the water rights settlement negotiations as to warrant further delay of the contracting process with the GRIC.

Responses 5–1(2): The Department agrees that the requirement for the Winters water rights provision should be retained. Accordingly, whether or not to modify or delete that requirement in the absence of a comprehensive water rights settlement is a moot question. See the Summary, Response 2–4, and Bases for Decision.

Comment 5–2: Several M&I entities have raised concerns regarding the impact of the proposed modifications on non-Indian M&I and agricultural water supplies. One concern is that if modification is made to the provisions of the CAP contracts with Indian tribes regarding mandatory effluent exchanges, similar modifications should be made to CAP M&I subcontracts with non-Indian entities to remove provisions which would cause the CAP M&I entitlements of such entities to be reduced by the amount of CAP water received in an effluent exchange.

Response 5–2: The Department acknowledges that concern. See Response 1–1 and Bases for Decision.

(6) ADWR, July 26, 1991.

Comment 6–1: The effluent exchange provision is now proposed for deletion from the Indians' CAP contracts was inserted in the contracts initially at the urging of ADWR. While there has been some discussion in the past few years of the efficacy of the provision, there has been no consensus among the Arizona water community on whether the clause should be deleted. Many different parties could be impacted by removal of the clause, and the effects on these parties could range from beneficial to deleterious. Before the provision is removed, more thorough consideration should be given to the effects of that action. We believe any change would more appropriately be made in the context of comprehensive water rights settlement with the affected Indian community.

Response 6–1: The Department disagrees. See Responses 1–1, 5–1, and the Bases for Decision.

Comment 6–2: The proposal to drop the provision crediting CAP water against an Indian tribe's Winters rights is troubling. There seems little reason to give Indian nations two allocations of water, without crediting one against the other.

Response 6–2: The requirement is retained. See the Summary, Response 2-4, and Bases for Decision.

(7) Robert S. Lynch, Attorney at Law (Central Arizona Irrigation and Drainage District and Maricopa-Stanfield Irrigation and Drainage District), July 29, 1991.

Comment 7–1: The basic fallacy of the proposals is the failure to recognize the finite nature of water supplies in Arizona.

Response 7–1: The Department now believes that the requirement for a substitute water provision in the CAP water service contracts with the Indian tribes is no longer critical to management of water supplies in Arizona. See Response 1.1 and Bases for Decision.

Comment 7–2: One of the central reasons for the allocation to Indian communities of priority water for agriculture included an action-forcing provision for exchange of potable CAP water for effluent to conserve scarce CAP resources. Estimates at that time were that 100,000 acre-feet of CAP water would be exchanged for treated effluent for Indian agricultural use. If that eventually does not come to pass, then non-Indian agriculture will lose 100,000 acre-feet of water delivery in good years and M&I contractors could suffer the same fate in years of severe CAP water shortages. That is clearly not good planning.

Response 7–2: The Department believes conditions have changed. See Response 1–1 and Bases for Decision.

Comment 7–3: The proposals are even more deficient in terms of their lack of sensitivity to the water policy and water conservation policy of the State of Arizona. There are many reasons why effluent exchanges have not been consummated to date. Now that the situation is clarified and other water management tools have been created by the [State's] Legislature, opportunities for effluent exchanges and other strategies are improved. It is too soon to

throw the whole process away because it has not yet worked.

Response 7-3: See Response 1-1 and Bases for Decision.

Comment 7-4: The Winters credit has not been an issue in negotiations because it was an item already decided. Putting it on the table now may complicate current negotiations and cause prior decisions to be reexamined.

Response 7-4: The Department agrees. See the Summary, Response 2-4, and Bases for Decision.

Comment 7-5: The Department should hold a series of meetings in Arizona on the proposed modifications and explore the ramifications of these proposals in much more detail before making any decisions.

Response 7-5: The Department disagrees. See Response 3-2.

Comment 7-6: Any action on these subjects will have such serious potential consequences as to clearly be major Federal actions significantly affecting the quality of the human environment.

Response 7-6: See NEPA Compliance. The Department has concluded that there are no significant new circumstances or information relative to environmental concerns that require supplemental NEPA review for the proposed modification of the CAP allocation decisions.

(8) Ellis, Baker, & Porter, P.C. (Central Arizona Irrigation and Drainage District, Maricopa-Stanfield Irrigation and Drainage District, and New Magma Irrigation and Drainage District), July 29, 1991.

COmment 8-1: The Districts object to the deletion of both the substitute water and Winters rights crediting provisions from the proposed contract with GRIC. A requirement for Indians to use effluent makes good water management sense, particularly since Indians do not have to comply with the State of Arizona's Ground Water Management Act. Changing the allocation decision may upset the basis upon which the Districts entered into CAP contracts and incurred millions of dollars of debt. The Department should hold public hearings on the proposed changes before adopting a final position.

Response 8-1: See Responses 1-1, 2-4, and 3-2, and Bases for Decision. The Department is not convinced that elimination of the substitute water provision will adversely impact the ability of the Districts to meet their financial and contractual obligations. The requirement for the Winters rights crediting provision in Indian contracts is retained.

Bases for Decision

The reasons for retaining the requirement for the *Winters* rights crediting provision in Indian contracts include:

(1) The concept of crediting the CAP allotment against a tribe's Winters rights was instituted by the 1980 Decision and put into the Indian contracts to accomplish following objectives—(1) to ensure that the tribes' adjudicated Winters water rights included the CAP allotment, (2) to assure all tribes that project water delivered to tribes will be credited against adjudicated Winters rights on such terms and conditions as may be agreed upon between the Secretary and the tribe at that time, (3) to assure all tribes that to the extent that a CAP allotment is credited, it could be used in any manner and for any uses permitted by a tribe's adjudicated Winters rights, and (4) to preclude negotiation of the same or similar issues with the various tribes during the adjudication and settlement processes with the possibility of arriving at different results. The Department believes that those objectives are still valid.

(2) Strong and persuasive opposition to deleting the requirement was expressed by commenters.

(3) The GIRC agreed to accept the original Winters rights crediting provision in its CAP water service contract in the interest of comity with other tribes and affected parties.

The reasons for deleting the requirement for the substitute water provision include:

(1) The Department is not aware of any substitute water that has been or is being proposed for exchanges with Indian tribes.

(2) Under the 1983 Decision and the existing CAP M&I water service subcontracts, there is apparently no incentive for a municipality to exchange substitute water with an Indian tribe. The 1983 Decision included a "pooling concept" whereby all non-Indian M&I entities would benefit on a pro rata basis from CAP water made available because of substitute water exchanges. Under the pooling concept, a municipality would make its effluent water available to CAWCD. CAWCD, through its water users, would finance the capital cost of facilities to transport the substitute water to a point of use on the reservation, and pay for the cost of operation, maintenance, and replacement (OM&R) associated with delivery of the substitute water. To encourage the municipalities to participate in the effluent exchange pool and to deter independent effluent exchanges with tribes, the M&I water service subcontracts included a penalty clause stating, in effect, that the municipality must incur all of the capital and OM&R costs to convey the effluent to a point of use on the reservation and the municipality's entitlement to CAP water under the subcontract must be reduced by the amount of CAP water received under the exchange, if its effluent is exchanged directly with an Indian tribe. Based on the lack of action or expressed interest in effluent exchanges, the Department has concluded that the municipalities do not consider the potential benefits of effluent exchanges with Indian tribes or communities adequate to justify entering into effluent exchange arrangements under the terms of the M&I subcontracts.

(3) Since the 1983 Decision, Arizona law has been enacted which requires that effluent be used on golf courses and in artificial lakes in lieu of potable water. The effect of this law is to create a new demand for effluent within the municipalities' service areas.

(4) Since the 1983 Decision, the municipalities have taken steps to augment their water supplies by other means. Several of the municipalities have purchased water ranches to obtain ground water or surface supplies. Further, the municipalities are considering introducing such non-Project water into the CAP aqueduct for conveyance to their service areas. They are also considering augmenting their water supplies by recharging CAP water into the ground in the early years of CAP operations for subsequent recovery and use during future shortage years or for future demands.

(5) Deletion of the mandatory substitute water provision from Indian contracts will not preclude the execution of voluntary substitute water agreements between the tribes and municipalities. If there are water shortages in the future, the Department believes that there will be strong pressures for all water users in Arizona, including the tribes, to work together to make the most effective use of all water resources, including effluent.

Final Decision

In consideration of the decisions of previous Secretaries on CAP water allocations; the draft and final environmental impact statements (EIS) prepared on Water Allocations and Water Service Contracting, Central Arizona Project (INT-DES 81-50 and INT-FES 82-7, respectively), and the public comments thereon; the notice of proposed modifications to the CAP water allocation published on June 28,

1991 (56 FR 29704), and the public comments thereon; and this Final Modification Decision notice; I hereby give notice of the Department's decision to modify the existing CAP water allocation decisions as set forth below and direct the Commissioner of Reclamation, through his Regional Director, Lower Colorado Region, Boulder City, Nevada, to proceed in accordance with the terms and conditions of this decision.

The requirement in the 1980 and 1983 CAP water allocation decisions for a substitute water provision in CAP water service contracts with Indian tribes and in the proposed CAP water service contract with the Gila River Indian Community is hereby terminated. The requirement for a Winters right crediting provision in the CAP water service contracts with Indian tribes remains unchanged.

Effective Date and Effect on Previous Decisions

This Final Modification Decision is effective as of the date of this notice and amends and supplements the 1980 and 1983 Decisions. Insofar as the December 10, 1980, and March 24, 1983, decisions are inconsistent with this Final Modification Decision, the affected provisions of the 1980 and 1983 . Decisions are hereby rescinded.

NEPA Compliance

Noice of availability of the Final EIS on Water Service Contracting for the CAP (cited above) was published on March 24, 1982 (47 FR 12689). That notice examined a number of allocation alternatives, two of which required effluent exchanges for tribal entities. The Record of Decision published on March 24, 1983 (48 FR 12446) discussed the alternatives to and options for effluent exchanges. It was determined that the relative differences in environmental impacts among the allocation alternatives, with and without the effluent exchange options, would not be significant.

With respect to this modification of the previous CAP water allocation decisions, the Department has revised the earlier NEPA documents and has determined that no changes have occurred which would alter the previous findings on affluent exchanges. Further, no new and significant information relevant to environmental concerns arose during the review and comment period which ended July 29, 1991. Accordingly, no additional NEPA review is required.

Dated: October 16, 1992.

Manuel Lujan, Jr.,

Secretary of the Interior.

[FR Doc. 92-25687 Filed 10-22-92; 8:45 am]

BILLING CODE 4310-09-M

Bureau of Land Management

[WY-010-4320-04]

Closure of Public Lands; Washakie County, WY

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of emergency closure for all motorized vehicles on public lands north of the Dry Farm Road in T. 44 N., R. 87 W., sections 13, 14, 22, 23, 24, and 25, Washakie County, Wyoming.

SUMMARY: Notice is hereby given that effective immediately all public lands north of Dry Farm Road in T. 44 N., R. 87 W., sections 13, 14, 22, 23, 24, and 25 is closed to all motorized vehicle use. It was determined that immediate action needed to be taken to stop the spread of spotted knapweed.

EFFECTIVE DATES: This closure is effective immediately and will remain in effect until rescinded or modified by the authorized officer.

FOR FURTHER INFORMATION CONTACT: Roger Inman, Area Manager, Washakie Resource Area or Dave Baker, Outdoor Recreation Planner, Washakie Resource Area, 101 South 23rd Street, P.O. Box 119, Worland, Wyoming 82401, (307) 347-9871.

SUPPLEMENTARY INFORMATION: This closure is in response to a request from the grazing permittee and Washakie County Weed and Pest District to control the spread of spotted knapweed, a designated noxious weed. Spotted knapweed is highly competitive and readily establishes on any disturbed soil. Once established, knapweed releases chemical substances which inhibit growth of surrounding vegetation. Knapweed is easily caught up in the undercarriage of motorized vehicles, allowing seed to be spread for miles.

This emergency closure applies to approximately 1,950 acres of public lands north of Dry Farm Road in T. 44 N., R. 87 W., sections 13, 14, 22, 23, 24 and 25, Sixth Principal Meridian, Washakie County, Wyoming. Off-road use designations apply to all motorized vehicles with the exceptions of: (1) Any fire, military, emergency, or law enforcement vehicle when used for emergency purposes or any combat support vehicle when used for national defense purposes;

(2) Any vehicle whose use is expressly authorized by the Bureau of Land Management under permit, lease, license, or contract; and

(3) Any government vehicle on official business.

Authority for closure order is provided under 43 CFR subpart 8364.1. Violations of this closure are punishable by a fine not to exceed $1,000 and/or imprisonment not to exceed 12 months.

Dated: October 14, 1992.

George Hollis,

Acting District Manager.

[FR Doc. 92-25692 Filed 10-22-92; 8:45 am]

BILLING CODE 4310-22-M

[NV-060-03-4370-01]

Battle Mountain District Advisory Council Meeting in Battle Mountain, NV

SUMMARY: Notice is hereby given in accordance with Public Law 94-579 and CFR part 1780 that a meeting of the Battle Mountain District Advisory Council will be held on December 2-3, 1992. The meeting will convene at 1 p.m. at the Tonopah Convention Center. The agenda will include discussions on multiple use resource management issues: Oil and gas leases, wetlands, threatened species habitat, Watchable Wildlife and cultural values present in Railroad Valley. There will be a tour of Railroad Valley on Thursday, December 3, 1992. Non-members must provide their own transportation.

The meeting is open to the public. Interested persons may make statements beginning at 3:30 p.m. If you wish to make an oral statement, please contact James D. Currivan by November 20, 1992.

FOR FURTHER INFORMATION CONTACT: James D. Currivan, District Manager, P.O. Box 1420, Battle Mountain, Nevada, 89820 or phone (702) 635-4000.

Dated: October 7, 1992.

James D. Currivan,

District Manager, Battle Mountain District.

[FR Doc. 92-25789 Filed 10-22-92; 8:45 am]

BILLING CODE 4310-HC-M

DEPARTMENT OF THE INTERIOR

[OR-050-4410-10:GP3-024]

Prineville Oregon District Grazing Advisory Board; Meeting

There will be a meeting of the Prineville Oregon District Grazing Advisory Board on Tuesday, November

24, 1992. The meeting will begin at 10 a.m. in the Bureau of Land Management district conference room at 185 E. 4th Street, in Prineville, Oregon. Agenda items include:

1. Introduction of Board members and BLM staff.
2. Review of charter and role of Grazing Advisory Board.
3. Coordinated Resource Management Plan update.
4. Five-year clock update—status of allotment evaluations.
5. Range Improvement projects proposed for FY 1993.
6. Anadramous fish management briefing.
7. Biodiversity overview/thrust.
8. Drought situation.
9. Sub-leasing concerns/new guidelines.
10. Determination of next meeting date and possible field trip.

Dated: October 16, 1992.

James L. Hancock,

District Manager, Prineville District Office.

[FR Doc. 92-25694 Filed 10-22-92; 8:45 am]

BILLING CODE 4310-33-M

[OR-943-4212-13; GP2-463; OR-46267]

Conveyance of Public Lands; Order Providing for Opening of Lands; Oregon

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: This action informs the public of the conveyance of 2,831.52 acres of public lands out of Federal ownership. This action will also open approximately 16,204.85 acres of reconveyed lands to surface entry, and 8,359.98 acres to mining and mineral leasing. Of the balance, the minerals in 5,126.35 acres have been and continue to be open to mining and mineral leasing, the minerals in 2,818.52 acres are not in Federal ownership, and the 100-acre balance is included in the John Day Wild and Scenic River withdrawal and will remain closed to surface entry.

EFFECTIVE DATE: November 30, 1992.

FOR FURTHER INFORMATION CONTACT: Linda Sullivan, BLM Oregon State Office, P.O. Box 2965, Portland, Oregon 97208, 503-280-7171.

SUPPLEMENTARY INFORMATION:

1. Notice is hereby given that in an exchange of lands made pursuant to section 206 of the Act of October 21, 1976, 43 U.S.C. 1716, a patent has been issued transferring 2,831.52 acres in Wheeler County, Oregon, from Federal to private ownership.

2. In the exchange, the following described lands have been reconveyed to the United States:

Willamette Meridian

T. 9 S., R. 20 E.,
Sec. 36, NE¼ and S½
T. 10 S., R. 20 E.,
Sec. 1, lots 1, 2, 3, and 4, S½N½, and S½;
Sec. 2, lots 2 and 3, S½N½, S½, that portion of lot 1 lying south of John Day River, and that portion of lot 4 lying north of John Day River;
Sec. 3, those portions of the SE¼NE¼ and NE¼SE¼ lying east of Bridge Creek County Road No. 14;
Sec. 4, S½;
Secs. 9, 10, and 11;
Sec. 12, NW¼NE¼, SE¼NE¼, and S½;
Sec. 16;
Sec. 17, N½, N½SW¼, SE¼SW¼, and SE¼;
Sec. 20;
Sec. 24; that portion of the SE¼SW¼ lying north and east of Bridge Creek County Road No. 14;
Sec. 25, that portion of the E½ lying north and east of Bridge Creek County Road, No. 14;
Sec. 35, S½.
T. 9 S., R. 21 E.,
Sec. 31, lots 3 and 4, and SE¼SW¼;
Sec. 32, SE¼NW¼, SW¼, SW¼SE¼, and that portion of the N½NW¼ lying south of John Day River.
T. 10 S., R. 21 E.,
Sec. 4, S½S½;
Sec. 5, lots 2, 3, and 4, SW¼NE¼, SE¼NW¼, W½SW¼, W½SE¼, and SE¼SE¼;
Sec. 6, lots 1 to 7, inclusive, S½NE¼, SE¼NW¼, E½SW¼, and W½SE¼;
Sec. 7, lots 1, 2, 3, and 4, E½, and E½W½;
Sec. 8, N½N½, SE¼NE¼, E½SE¼, and SW¼SE¼;
Sec. 9, N½ and SW¼;
Sec. 12, SE¼NE¼, SE¼NW¼, E½SW¼, and SE¼SE¼;
Sec. 25, E½SE¼;
Sec. 30, that portion of lot 4 lying north and east of Bridge Creek County Road No. 14;
Sec. 31, those portions of lot 1, N½NE¼ and NE¼NW¼ lying north and east of Bridge Creek County Road No. 14;
Sec. 36, N½, N½SW¼, SE¼SW¼, and SE¼.
T. 11 S., R. 21 E.,
Sec. 26, that portion of the NE¼NE¼ lying west of Oregon State Highway No. 207.
T. 9 S., R. 22 E.,
Sec. 32, E½SE¼ and that portion of the E½NE¼ lying south and east of John Day River;
Sec. 33, SW¼, W½SE¼, SE¼SE¼, and that portion of the N½NW¼ lying south and east of John Day River;
Sec. 34, SW¼SW¼.
T. 10 S., R. 22 E.,
Sec. 3, lots 3 and 4, SE¼NW¼, SW¼, and W½SE¼;
Sec. 4, lots 1, 2, 3, and 4, S½N½, N½SW¼, SE¼SW¼, and SE¼;
Sec. 5, lots 1 and 3, S½NE¼, SE¼NW¼, and S½;
Sec. 7, lots 2 and 4, S½NE¼, E½SW¼, and SE¼;
Sec. 8, N½, E½SW¼, and N½SE¼;
Sec. 9, NE¼, NE¼NW¼, S½SW¼, N½S½, and SW¼SE¼;
Sec. 10, W½NE¼, NW¼, N½SW¼, and NW¼SE¼;
Sec. 30, lot 4, SE¼SW¼, and SW¼SE¼;
Sec. 31, lots 2, 3, and 4, W½NE¼NE¼, S½NE¼, SE¼NW¼, E½SW¼, SE¼, and all that portion of the E½NE¼NE¼ lying southerly and westerly of the following described line: Beginning at a point on the north south centerline of the NE¼NE¼ of Sec. 31, said point being 50' north of the centerline of the existing unimproved road; Thence southerly and easterly along a line parallel to the 50' northerly and easterly of said road to the intersection of said line with the southerly and westerly right-of-way boundary of Oregon State Highway No. 207; Thence southerly and easterly along said right-of-way boundary to the intersection with the section line between Secs. 31 and 32;
Sec. 32, SW¼SW¼NW¼, SW¼NE¼SW¼, W½SW¼, SE¼SW¼, SW¼SW¼SE¼, and S½SE¼SW¼SE¼.
T. 11 S., R. 22 E.,
Sec. 5, lots 3 and 4, S½NW¼, SW¼, SE¼SE¼, and the diagonal NW¼ of lot 2 being that part of said lot northwest of the line running between the southwest corner to the northeast corner of said lot;
Sec. 6, lots 1 and 2, S½NE¼, and NE¼SE¼;
Sec. 7, E½NE¼;
Sec. 8, N½, N½S½, and that part of the S½SW¼ lying north of road, EXCEPT beginning at Engineer's Station 38+73.70 on the centerline of the relocated Service Creek-Mitchell Highway; Said Station begins 83.3 feet north and 4,766.6 feet west of the southeast corner of said Sec. 8; Thence south 61°43' west, along said centerline a distance of 533.62 feet to Engineer's Station 44+07.32; Thence continuing south 61°43' west leaving said centerline 26.38 feet; Thence north 9°04'30" west, 520 feet; thence north 61°41' east, 560 feet; thence south 9°04'30" east, 520 feet to the point of beginning.

The areas described aggregate approximately 16,304.85 acres in Wheeler County.

3. All or portions of the following described lands are included in the John Day Wild and Scenic River withdrawal and will not be opened to surface entry.

Willamette Meridian

T. 9 S., R. 20 E.,
Sec. 36, S½.
T. 10 S., R 20 E.,
Sec. 1, lots 1 and 4;
Sec. 2, lots 1, 2, and 3 and that portion of lot 4 lying south of John Day River;
T. 9 S., R 21 E.,
Sec. 31, lots 3 and 4;
Sec. 32, that portion of the N½NW¼ lying south of John Day River.
T. 9 S., R 22 E.,

Sec. 32, that portion of the E½NE¼ lying south and east of John Day River;
Sec. 33, N½NW¼ lying south and east of John Day River.
T. 10 S., R 22 E.,
Sec. 5, lot 3.

The areas described aggregate approximately 100 acres in Wheeler County.

4. At 8:30 a.m., on November 30, 1992, the lands described in paragraph 2, except as provided in paragraph 3, will be opened to operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, any segregations of record, and the requirements of applicable law. All valid existing applications received at or prior to 8:30 a.m., on November 30, 1992, will be considered as simultaneously filed at that time. Those received thereafter will be considered in the order of filing.

5. At 8:30 a.m., on November 30, 1992, the following described lands will be opened to location and entry under the United States mining laws. Appropriation of land under the general mining laws prior to the date and time of restoration is unauthorized. Any such attempted appropriation, including attempted adverse possession under 30 U.S.C. 38, shall vest no rights against the United States. Acts required to establish a location and to initiate a right of possession are governed by State law where not in conflict with Federal law. The Bureau of Land Management will not intervene in disputes between rival locators over possessory rights since Congress has provided for such determinations in local courts:

Williamette Meridian

T. 9 S., R 20 E.,
Sec. 36, NE¼ and S½.
T. 10 S., R 20 E.,
Sec. 2, lots 2 and 3, S½NW¼, W½SW¼, and that portion of lot 1 lying south of John Day River and that portion of lot 4 lying north of John Day River;
Sec. 3, those portions of the SE¼NE¼ and NE¼SE¼ lying east of Bridge Creek County Road No. 14;
Sec. 12, SE¼NE¼;
Secs. 16 and 20;
Sec. 24, that portion of the SE¼SW¼ lying north and east of Bridge Creek County Road No. 14;
Sec. 25, that portion of the E½ lying north and east of Bridge Creek County Road, No. 14;
Sec. 35, S½.
T. 9 S., R. 21 E.,
Sec. 31, SE¼SW¼ and those portions of lots 3 and 4 lying outside the boundary of the John Day Wild and Scenic River Withdrawal;
Sec. 32, SW¼, SW¼SE¼, and that portion of the N½NW¼ lying south of John Day River.
T. 10 S., R. 21 E.,
Sec. 4, S½SE¼;
Sec. 5, lots 2, 3, and 4, and W½SW¼;
Sec. 6, lots 1, 4, 5, 6, and 7, and SE¼NE¼;
Sec. 7, lots 1,2, 3, and 4, E½, and E½W½;
Sec. 9, NE¼NE¼, S½NE¼, W½NW¼, and SE¼NW¼;
Sec. 12, SE¼SE¼;
Sec. 25, E½SE¼;
Sec. 30, that portion of lot 4 lying north and east of Bridge Creek County Road No. 14;
Sec. 36, N½, N½SW¼, SE¼SW¼, and SE¼.
T. 11 S., R. 21 E.,
Sec. 26, that portion of the NE¼NE¼ lying west of Oregon State Highway No. 207.
T. 9 S., R. 22 E.,
Sec. 32, that portion of the E½NE¼ lying south and east of John Day River;
Sec. 33, that portion of the N½NW¼ lying south and east of John Day River.
T. 10 S., R. 22 E.,
Sec. 3, SE¼NW¼, SW¼, and W½SE¼;
Sec. 4, lot 4, S½N½, N½SW¼, SE¼SW¼, and SE¼;
Sec. 5, lot 3, S½NE¼, SE¼NW¼, and SE¼;
Sec. 8, NE¼, N½NW¼, and NW¼SE¼;
Sec. 9, NE¼, NE¼NW¼, S½NW¼, NE¼SW¼, NE¼SE¼, and SW¼SE¼;
Sec. 10, W½NE¼, NW¼, N½SW¼, and NW¼SE¼;
Sec. 30, lots 4, SE¼SW¼, and SW¼SE¼;
Sec. 31, lots 2, 3, and 4, W½NE¼NE¼, S½NE¼, SE¼NW¼, E½SW¼, W½SE¼, SE¼SE¼, and all that portion of the E½NE¼NE¼ lying southerly and westerly of the following described line: Beginning at a point on the north south centerline of the NE¼NE¼ of Sec. 31, said point being 50' north of the centerline of the existing unimproved road; Thence southerly and easterly along a line parallel to and 50' northerly and easterly of said road to the intersection of said line with the southerly and westerly right-of-way boundary of Oregon State Highway No. 207; Thence southerly and easterly along said right-of-way boundary to the intersection with the section line between Secs. 31 and 32;
Sec. 32, SW¼SW¼NW¼, SW¼NE¼SW¼, W½SW¼, SW¼SW¼SE¼, and S½SE¼SW¼SE¼.
T. 11 S., R. 22 E.,
Sec. 5, lots 3 and 4, SW¼NW¼, SW¼, SE¼SE¼, and the diagonal NW¼ of lot 2 being that part of said lot northwest of the line running between the southwest corner to the northeast corner of said lot;
Sec. 6, lots 1 and 2, S½NE¼, and NE¼SE¼;
Sec. 7, E½NE¼;
Sec. 8, E½NE¼, W½NW¼, SE¼NW¼, NW¼SW¼, NW¼SW¼, and NE¼SE¼.

6. At 8:30 a.m., on November 30, 1992, the lands described in paragraph 5 will be opened to applications and offers under the mineral leasing laws.

Dated: October 15, 1992.

Robert E. Mollohan,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 92-25691 Filed 10-22-92; 8:45 am]

BILLING CODE 4310-33-M

[AK-070-03-4230-23; F-88227]

Permit of Public Land, Indian Mountain, AK

AGENCY: Bureau of Land Management, DOI.

ACTION: Notice of realty action.

SUMMARY: This notice of realty action involves a proposal for a three year renewable permit to Mark S. Berrie. The permit is intended to authorize construction, maintenance and operation of a trapping cabin near Indian Mountain, approximately four miles southeast of the Utopia Airstrip.

DATES: Comments and an application must be received by December 7, 1992.

ADDRESSES: Comments and an application must be submitted to the Kobuk District Manager, 1150 University Avenue, Fairbanks, Alaska 99709-3844.

FOR FURTHER INFORMATION CONTACT: David Mobraten—(907) 474-2335.

SUPPLEMENTARY INFORMATION: The site examined and found suitable for permitting under the provisions of section 302 of the Federal Land Policy and Management Act of 1976, and 43 CFR part 2920, is described as within:

Sec. 34, T. 7 N., R. 25 E., Kateel River Meridian, Alaska. An application will only be accepted from Mark S. Berrie who presently uses this area for trapping. The comments and application must include a reference to this notice. A category II processing fee of $300 must be submitted with the application and a monitoring fee of $75 will be due prior to issuance of the permit. Annual rental shall be fair market value as determined by appraisal.

Dated: October 9, 1992.

Helen M. Hankins,

Kobuk District Manager.

[FR Doc. 92-25696 Filed 10-22-92; 8:45 am]

BILLING CODE 4310-JA-M

[G-910-G3-0002/NM-010-4333-04; NMNM 87650]

Proposed Withdrawal and Opportunity for Public Meeting; New Mexico

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Bureau of Land Management proposes to withdraw 4,553.06 acres of public land in Sandoval County, New Mexico to protect the geologic, mineralogic and biologic values of the Tent Rocks Area of Critical

Environmental Concern (ACEC). This notice closes the land for up to 2 years from surface entry and mining. The land will remain open to mineral leasing.

DATES: Comments and requests for a public meeting must be received by January 21, 1993.

ADDRESSES: Comments and meeting requests should be sent to the Albuquerque District Manager, BLM, 435 Montano NE, Albuquerque, New Mexico 87107.

FOR FURTHER INFORMATION CONTACT: Debby Lucero, BLM, Rio Puerco Resource Area, 505-761-8704.

SUPPLEMENTARY INFORMATION: On September 22, 1992, a petition was approved allowing the Bureau of Land Management to file an application to withdraw the following described public land from settlement, sale, location, or entry under the general land laws, including the mining laws, subject to valid existing rights:

New Mexico Principal Meridian

T. 16 N., R. 5 E.,
Sec. 3, lots 1 to 6, inclusive, S½NW¼, SW¼;
Sec. 4, lots 1 to 4, inclusive, S½N½, S½;
Sec. 5, lots 1 to 4, inclusive, S½N½, S½.
T. 17 N., R. 5 E.,
Sec. 27, lots 1 to 4, inclusive, S½;
Sec. 28, lots 1 to 4, inclusive, N½S½, SE¼SE¼; S½SW¼, SW¼SE¼ (minerals only, private surface);
Sec. 29, lots 1 to 4, inclusive, NW¼SW¼, S½SW¼;
Sec. 30, lots 1 to 4, inclusive, S½;
Sec. 31, N½;
Sec. 33, lots 1 to 4 inclusive, N½S½; N½ (minerals only, private surface);
Sec. 34, lots 2 to 5, inclusive, N½, N½S½.

The areas described aggregate 4,553.06 acres in Sandoval County, New Mexico.

The purpose of the proposed withdrawal is to protect the geologic, mineralogic and biologic values of the Tent Rocks ACEC.

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 Albuquerque District Manager.

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 Albuquerque District Manager 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 the 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 the regulations set forth in 43 CFR part 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 uses which may be permitted during this segregative period are licenses, permits, cooperative agreements, and discretionary land use authorizations of a temporary nature, but only with the approval of an authorized officer of the Bureau of Land Management.

Dated: October 13, 1992.

Robert T. Dale,

District Manager.

[FR Doc. 92-25690 Filed 10-22-92; 8:45 am]

BILLING CODE 4310-FB-M

[WY-930-4210-06; WYW 127522]

Notice of Proposed Withdrawal; Wyoming

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The U.S. Department of Agriculture, Forest Service, has filed an application to withdraw 1,278.09 acres of National Forest System land for 20 years to protect the unique natural, archaeological, and historical values in the Inyan Kara Area of the Black Hills National Forest. This notice closes the land to location and entry under the United States mining laws for up to 2 years. The land will remain open to mineral leasing.

DATES: Comments must be received on or before January 21, 1993.

ADDRESSES: Comments should be sent to the Wyoming State Director, BLM, 2515 Warren Avenue, P.O. Box 1828, Cheyenne, Wyoming 82003.

FOR FURTHER INFORMATION CONTACT: Duane Feick, BLM Wyoming State Office, P.O. Box 1828, Cheyenne, Wyoming 82003, 307-775-6127.

SUPPLEMENTARY INFORMATION: On September 16, 1992, the U.S. Department of Agriculture filed an application to withdraw the following described National Forest System land from location and entry under the United States mining laws, subject to valid existing rights:

Sixth Principal Meridian, Wyoming

Black Hills National Forest

T. 49 N., R. 62 W.,
Sec. 19, all;
Sec. 30, lots 1, 2, N½NE¼, E½NW¼.
T. 49 N., R. 63 W.,
Sec. 24, E½E½;
Sec. 25, NE¼, N½ SE¼.

The area described contains 1,278.09 acres in Crook County.

The proposed Inyan Kara withdrawal area contains unique and important natural, historical, and cultural resources.

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.

The application will be processed in accordance with the regulations set forth in 43 CFR part 2300.

For a period of 2 years from the date of publication of this notice in the **Federal Register**, the land will be segregated from the mining laws as specified above, unless the application is denied or canceled, or the withdrawal is approved prior to that date. During this segregative period the Forest Service will continue to allow those uses that are consistent with the Black Hills National Forest Land and Resource Plan.

The temporary segregation of the land in connection with this withdrawal application shall not affect the administrative jurisdiction over the land, and segregation shall not have the effect of authorizing any use of the land by the Department of Agriculture.

Dated: October 15, 1992.

F. William Eikenberry,

Associate State Director, Wyoming.

[FR Doc. 92-25693 Filed 10-22-92; 8:45 am]

BILLING CODE 4310-22-M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 332-326]

Economic Integration in East Asia: Implications for the United States

AGENCY: United States International Trade Commission.

ACTION: Cancellation of hearing.

SUMMARY: On October 15, 1992, the Commission received notice of withdrawal from the only scheduled witness for the hearing scheduled for October 20 and 21, 1992, in this matter. Therefore, the public hearing in connection with this investigation

(scheduled to be held beginning at 9:30 a.m. on October 20, 1992, at the U.S. International Trade Commission Building, 500 E Street, SW., Washington, DC), is cancelled. The Commission has determined that it was not possible to issue an advance notice of this cancellation. Notice of institution of this investigation and the scheduling and rescheduling of the hearing was published in the **Federal Register** of July 15, 1992 and July 29, 1992 (57 FR 31386 and 57 FR 33520, respectively).

EFFECTIVE DATE: October 19, 1992.

FOR FURTHER INFORMATION CONTACT: Edward Carroll (202–205–1819), Office of Public Affairs, US International Trade Commission. Hearing impaired persons can obtain information on this study by contacting the Commission's TDD terminal on (202–205–1810).

Issued: October 20, 1992.

By order of the Commission.

Paul R. Bardos,

Acting Secretary.

[FR Doc. 92–25757 Filed 10–22–92; 8:45 am]

BILLING CODE 7020–02–M

INTERSTATE COMMERCE COMMISSION

Agricultural Cooperative; Notice to the Commission of Intent To Perform Interstate Transportation for Certain Nonmembers

The following Notices were filed in accordance with section 10526(a)(5) of the Interstate Commerce Act. These rules provide that agricultural cooperatives intending to perform nonmenber, non-exempt, interstate transportation must file the Notice, Form BOP 102, with the Commission within 30 days of its annual meeting each year. Any subsequent change concerning officers, directors, and location of transportation records shall require the filing of a supplemental Notice within 30 days of such change.

The name and address of the agricultural cooperative (1) and (2), the location of the records (3), and the name and address of the person to whom inquiries and correspondence should be addressed (4), are published here for interested persons. Submission of information which could have bearing upon the propriety of a filing should be directed to the Commission's Office of Compliance and Consumer Assistance, Washington, DC 20423. The Notices are in a central file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, DC.

(1) Knouse Foods Inc.

(2) Peach Glen, PA 17375–0001

(3) 800 Peach Glen Idaville Rd., Peach Glen, PA 17375–0001

(4) Arlene Jennings, Peach Glen, PA 17375–0001

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 92–25774 Filed 10–22–92; 8:45 am]

BILLING CODE 7035–01–M

[Finance Docket No. 32056]

CSX Transportation, Inc.—Continuance in Control Exemption—The Three Rivers Railway Co.

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Interstate Commerce Commission exempts from the prior approval requirements of 49 U.S.C. 11343, *et seq.*, the continuation in control by CSX Corporation and, in turn, by CSX Transportation, Inc., of The Three Rivers Railway Company, subject to standard employee protective conditions.

DATES: This exemption will be effective on November 22, 1992. Petitions for stay must be filed by November 2, 1992, and petitions for reconsideration must be filed by November 12, 1992.

ADDRESSES: Send pleadings referring to Finance Docket No. 32056 to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423 and

(2) Petitioners' representative: Vincent F. Prada, 1722 Eye Street, NW., Washington, DC 20006

FOR FURTHER INFORMATION CONTACT: Richard B. Felder, (202) 927–5610. [TDD for hearing impaired: (202) 927–5721

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to, call, or pick up in person from: Dynamic Concepts, Inc., room 2229, Interstate Commerce Commission Building, Washington, DC 20423. Telephone: (202) 289–4357/4359. [Assistance for the hearing impaired is available through TDD services (202) 927–5721.].

Decided: October 16, 1992.

By the Commission, Chairman Philbin, Vice Chairman McDonald, Commissioners Simmons, Phillips, and Emmett.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 92–25772 Filed 10–22–92; 8:45 am]

BILLING CODE 7035–01–M

[Finance Docket No. 32149]

Genesee & Wyoming Industries, Inc.—Continuance in Control Exemption—Allegheny & Eastern Railroad, Inc.

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Interstate Commerce Commission exempts from the prior approval requirements of 49 U.S.C. 11343, *et seq.*, the continuance in control by Genesee & Wyoming Industries, Inc., of Allegheny & Eastern Railroad, Inc., subject to standard employee protective conditions.

DATES: This exemption will be effective on October 28, 1992. Petitions for reconsideration must be filed by November 12, 1992.

ADDRESSES: Send pleadings referring to Finance Docket No. 32149 to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423 and

(2) Petitioners' representative: Charles D. Cramton, 700 Midtown Tower, Rochester, NY 14604.

FOR FURTHER INFORMATION CONTACT: Richard B. Felder, (202) 927–5610. [TDD for hearing impaired: (202) 927–5721].

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to, call, or pick up in person from: Dynamic Concepts, Inc., room 2229, Interstate Commerce Commission Building, Washington, DC 20423. Telephone: (202) 289–4357/4359. Assistance for the hearing impaired is available through TDD services (202) 927–5721.

Decided: October 15, 1992.

By the Commission, Chairman Philbin, Vice Chairman McDonald, Commissioners Simmons, Phillips, and Emmett.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 92–25773 Filed 10–22–92; 8:45 am]

BILLING CODE 7035–01–M

DEPARTMENT OF JUSTICE

Information Collections Under Review

The Office of Management and Budget (OMB) has been sent the following collection(s) of information proposals for review under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35) and the Paperwork Reduction Reauthorization Act since the last list was published. Entries are

grouped into submission categories, with each entry containing the following information:

(1) The title of the form/collection;

(2) The agency form number, if any, and the applicable component of the Department sponsoring the collection;

(3) How often the form must be filled out or the information is collected;

(4) Who will be asked or required to respond, as well as a brief abstract;

(5) An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond;

(6) An estimate of the total public burden (in hours) associated with the collection; and,

(7) An indication as to whether section 3504(h) of Public Law 96-511 applies.

Comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the OMB reviewer, Ms. Lin Liu, on (202) 395-7340 and to the Department of Justice's Clearance Officer, Mr. Don Wolfrey, on (202) 514-4115. If you anticipate commenting on a form/collection, but find that time to prepare such comments will prevent you from prompt submission, you should notify the OMB reviewer and the DOJ Clearance Officer of your intent as soon as possible. Written comments regarding the burden estimate or any other aspect of the collection may be submitted to Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, and to Mr. Don Wolfrey, DOJ Clearance Officer, SPS/JMD/5031 CAB, Department of Justice, Washington, DC 20530.

Revision of a Currently Approved Collection

(1) Criminal Justice Block Grants—Drug Control and System Improvement—Formula Grant Program.

(2) OJP Form 4301/1 and OJP Form 4310/2. Office of Justice Programs.

(3) Annually.

(4) State or local governments. The collected information will provide performance and impact data on drug control and criminal justice system improvement projects related to subgrants awarded to state and local governments. The information will be obtained from subgrantees.

(5) 1,800 annual responses at .75 hours per response.

(6) 1,350 annual burden hours.

(7) Not applicable under 3504(h).

Public comment on these items is encouraged.

Dated: October 20, 1992.

Don Wolfrey,

Department Clearance Officer.

[FR Doc. 92-25740 Filed 10-22-92; 8:45 am]

BILLING CODE 4410-18-M

Notice of Lodging a Final Judgment by Consent Pursuant to the Comprehensive Environmental Response, Compensation and Liability Act

Notice is hereby given that on October 6, 1992 a proposed consent decree in *United States* v. *Beazer East, Inc., et al.* was lodged with the United States District Court for the Northern District of Ohio. The decree pertains to the Summit National Site in Deerfield Township, Portage County, Ohio.

The proposed consent decree requires Mansfield Graphics, Inc. to pay the United States $56,000 over a two year period, plus interest beginning to accrue thirty days following entry of the Consent Decree.

The Department of Justice will receive comments relating to the proposed consent decree for a period of thirty days from the date of publication of this notice. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States* v. *Beazer East, Inc. et al.* (N.D. Ohio) and DOJ Ref. No. 90-11-2-318A. The proposed consent decree may be examined at the office of the United States Attorney, Northern District of Ohio, 1404 E. Ninth St., suite 500, Cleveland, Ohio, 44114-1748, at the office of the Environmental Protection Agency, Region V, 77 West Jackson Blvd., Chicago, Illinois, 60604-3590, or at the Environmental Enforcement Section Document Center, 501 Pennsylvania Avenue, NW., Box 1097, Washington, DC 20004, (202) 347-2072. A copy of the proposed consent decree may be obtained in person or by mail from the Document Center. In requesting a copy please enclose a check in the amount of $3.50 (25 cents per page reproduction costs) payable to "Consent Decree Library".

Vicki A. O'Meara,

Acting Assistant Attorney General, Environment and Natural Resources Division.

[FR Doc. 92-25749 Filed 10-22-92; 8:45 am]

BILLING CODE 4410-01-M

Notice of Lodging of Consent Decree Pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act

In accordance with the Departmental policy, 28 CFR 50.7, notice is hereby given that on October 7, 1992, a proposed Consent Decree in *United States* v. *Data General et al.*, Civ. No. 85-634-L, *United States* v. *Clean Harbors of Natick, Inc. et al.*, Civ. No. 89-109-L, and *United States* v. *Baird Corp. et al.*, Civ. No. 92-519-L was lodged with the United States District Court for the District of New Hampshire resolving these matters. The proposed Consent Decree concerns the response to the existence of hazardous substances at the Keefe Chemical Waste Site in Epping, New Hampshire, pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act, as amended.

Under the proposed Consent Decree, the defendants will pay a total of $14,605,207 to resolve their liability pursuant to sections 106 and 107 of the Comprehensive Environmental Response, Compensation and Liability Act, as amended, 42 U.S.C. 9601 *et seq.* Two Federal agencies, the United States Air Force and the United States Navy, are contributing an additional $313,379. EPA is currently performing the remedy selected for remediation of the contamination at the Site. This settlement is expected to provide 100% recovery of all response costs incurred or to be incurred at the Site.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General of the Environment and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States* v. *Data General et al.*, D.J. Ref. 90-11-2-14.

The proposed Consent Decree may be examined at the Region 1 Office of the Environmental Protection Agency, One Congress Street, Boston, Massachusetts. Copies of the Consent Decree may be examined at the Consent Decree Library, 601 Pennsylvania Ave., NW., Box 1097, Washington, DC 20044, (202) 347-7829. A copy of the proposed Consent Decree (excluding Appendices) may be obtained in person or by mail from the Consent Decree Library. In requesting a copy, please refer to the referenced case and enclose a check in the amount of $51.50 (25 cents per page reproduction cost), or $10.00 if signature

pages are not required, made payable to the Consent Decree Library.

Vicki A. O'Meara,

Acting Assistant Attorney General, Environmental and Natural Resources Division.

[FR Doc. 92-25750 Filed 10-22-92; 8:45 am]

BILLING CODE 4410-01-M

Notice of Lodging of Consent Decree in United States v. Dover Industrial Chrome, Inc. and Ariel G. Schrodt

In accordance with the policy of the Department of Justice, 28 CFR 50.7, notice is hereby given that on October 5, 1992, a proposed Consent Decree in *United States of America* v. *Dover Industrial Chrome, Inc. and Ariel G. Schrodt*, Civil Action No. 91-C-8227, has been lodged with the United States District Court for the Northern District of Illinois. This action was brought pursuant to Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. 6901 *et seq.* The complaint alleged that Defendants Dover and Schrodt violated certain requirements of RCRA and the regulations promulgated thereunder at Dover's electroplating facility in Chicago, Illinois, and the Dover violated a Consent and Final Order ("CAFO") entered into by the United States and Dover in 1987.

Under the proposed decree, Dover and Schrodt will:

(1) Develop and submit for approval to the Illinois Environmental Protection Agency ("IEPA") a plan for the closure of Dover's storage facility; (2) implement the closure plan upon its approval by IEPA; (3) develop and implement a post-closure plan if required by IEPA; (4) comply with various administrative and financial assurance requirements of RCRA and its applicable regulations; and (5) pay a civil penalty of $29,000 (in three installments).

The Department of Justice will receive comments on the proposed Consent Decree for a period of 30 days from the publication of this Notice. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, U.S. Department of Justice, Washington, DC 20530. All comments should refer to *United States* v. *Dover Industrial Chrome, Inc. and Ariel G. Schrodt*, D.J. Ref. No. 90-7-1-583.

The proposed Consent Decree may be examined at the Region V Office of the U.S. Environmental Protection Agency, 111 West Jackson Street, Third Floor, Chicago, Illinois 60604 (312-886-0556); and at the U.S. Department of Justice, Consent Decree Library, 601 Pennsylvania Ave., NW., Box 1097, Washington, DC 20004 (202-347-7829). A copy of the proposed Consent Decree may be obtained in person or by mail from the Consent Decree Library. In requesting a copy, please specify the documents required, together with a check payable to the "Consent Decree Library" for $6.50 ($.25 per page reproduction costs).

Vicki A. O'Meara,

Acting Assistant Attorney General, Environment and Natural Resources Division.

[FR Doc. 92-25751 Filed 10-22-92; 8:45 am]

BILLING CODE 4410-01-M

Antitrust Division

Notice Pursuant to the National Cooperative Research Act of 1984, Advanced Lead-Acid Battery Consortium

Notice is hereby given that, on September 10, 1992, pursuant to section 6(a) of the National Cooperative Research Act of 1984, 15 U.S.C. 4301 *et seq.* ("the Act"), the Advanced Lead-Acid Battery Consortium ("ALABC"), a discrete program of the International Lead Zinc Research Organization, Inc. ("ILZRO"), filed a written notification simultaneously with the Attorney General and the Federal Trade Commission disclosing the addition of fourteen members to the ALABC. The notification was filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, the ALABC advised that written commitments to become members of the ALABC have been received from Cookson-Entek/Technical Fibres, Killingworth, England; Dowa Mining Company, Ltd., Tokyo, Japan; Firing Circuits, Inc., Norwalk, CT; Hawker Batteries Ltd., Market Harborough, United Kingdom; Heuebach & Lindgens Eng. GmbH, Langelehelm, Germany; Kyungwon Battery Co., Ltd., Kyungki-do, Korea; Japan Storage Battery Co., Kyoto, Japan, Penoles Metals & Chem., Inc., New York, NY; and Trojan Battery Co., Santa Fe Springs, CA. Verbal commitments to become members of the ALABC have been received from Honda R&D, Torrance, CA; Matsushita Battery Ind. Co., Ltd., Osaka, Japan; Nippon Mining Company, Ltd., Tokyo, Japan; Shin-Kobe Electric Mach. Co., Ltd., Tokyo, Japan; and Sumitomo Metal Mining Co., Ltd., Tokyo, Japan.

On other changes have been made in either the membership or planned activity of the ALABC. Membership in the ALABC remains open and the ALABC intends to file additional written notification disclosing any future changes in membership.

On June 15, 1992, the ALABC 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 July 29, 1992, 57 FR 33522.

Joseph H. Widmar,

Director of Operations, Antitrust Division.

[FR Doc. 92-25752 Filed 10-22-92; 8:45 am]

BILLING CODE 4410-01-M

DEPARTMENT OF LABOR

Labor Advisory Committee for Trade Negotiations and Trade Policy; Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463 as amended), notice is hereby given of a meeting of the Labor Advisory Committee for Trade Negotiations and Trade Policy.

DATE, TIME AND PLACE: November 12, 1992, 10 am-12 noon, Rm. S-4215 A&B, Department of Labor Building, 200 Constitution Ave., NW., Washington, DC 20210.

PURPOSE: To discuss trade negotiations and trade policy of the United States.

This meeting will be closed under the authority of section 10(d) of the Federal Advisory Committee Act and 5 U.S.C. 552(c)(1). The Committee will hear and discuss sensitive and confidential matters concerning U.S. trade negotiations and trade policy.

FOR FURTHER INFORMATION CONTACT: Fernand Lavallee, Director, Trade Advisory Group. Phone: (202) 523-2752.

Signed at Washington, DC this 13th day of October 1992.

Shellyn G. McCaffrey,

Deputy Under Secretary, International Affairs.

[FR Doc. 92-25743 Filed 10-22-92; 8:45 am]

BILLING CODE 4510-28-M

Employment and Training Administration

In the matter of:

TA-W-27,438 Oklahoma City, Oklahoma
TA-W-27,438A All Other Locations in Oklahoma
TA-W-27,439 Jackson, Mississippi
TA-W-27,439A All Other Locations in Mississippi and Operating at other Locations in the Following States:
TA-W-27,439B ALABAMA
TA-W-27,439C COLORADO
TA-W-27,439D MICHIGAN
TA-W-27,439E MONTANA
TA-W-27,439F TEXAS
TA-W-27,439G NEW MEXICO

TA-W-27,439H WYOMING

Grace Petroleum Corp.; Amended Certification Regarding Eligibility to Apply for Workers Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on August 21, 1992, applicable to all workers of Grace Petroleum in Oklahoma City, Oklahoma and Jackson, Mississippi. The certification notice was published in the **Federal Register** on September 9, 1992 (57 FR 41153).

The Department is amending the certification to include all locations in the states of Alabama, Colorado, Michigan, Montana, New Mexico, Texas and Wyoming and other locations in Oklahoma and Mississippi.

New information received by the Department shows that the Grace Petroleum workers in the additional states all report to Oklahoma City.

The amended notice applicable to TA-W-27,438 and TA-W-27,439 is hereby issued as follows:

All workers at the Oklahoma City, Oklahoma and Jackson, Mississippi plants of Grace Petroleum Corporation and those in other locations of Oklahoma and Mississippi and those operating in the States of Alabama, Colorado, Michigan, Montana, New Mexico, Texas and Wyoming who became totally or partially separated from employment on or after June 17, 1991 are eligible to apply for adjustment assistance.

Signed at Washington, DC this 13th day of October 1992.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 92-25744 Filed 10-22-92; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-27,856]

Hercules, Inc., Radford, VA; Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on September 28, 1992 in response to a worker petition which was filed on September 28, 1992 on behalf of workers at Hercules, Incorporated, Radford, Virginia.

The petitioning group of workers is subject to an ongoing investigation for which a determination has not yet been issued (TA-W-27,810). Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed at Washington, DC this 15th day of October, 1992.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 92-25745 Filed 10-22-92; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-25,851]

Sunshine Mining Company, Kellogg, ID; Negative Determination on Reconsideration

By order dated June 1, 1992, the United States Court of International Trade (USCIT) in *United Steelworkers of America AFL-CIO and USW Local #5089* v. *Secretary of Labor* (USCIT) 91-12-00855 remanded this case to the Department for further investigation.

The investigation findings show that the workers at the Sunshine Mining Company in Kellogg, Idaho produce mainly silver, along with some copper and antimony. The workers are not separately identifiable by product.

The workers under this petition were initially denied on July 10, 1991. The negative determination was published in the **Federal Register** on July 30, 1991 (56 FR 36065). The basis for the Department's denial was the fact that the "contributed importantly" test of the Group Eligibility Requirements of the Trade Act was not met. The "contributed importantly" test is generally demonstrated through a survey of the workers' firm's customers. The Department's survey showed that the respondents to the survey indicated that they either did not import or had declining imports.

The findings show that Kellogg's total production is sold to its parent company in Dallas, Texas, AR 21. The parent company does not import silver, AR 12. The only customer which buys copper and antimony from the parent company had decreased import purchases of copper and antimony in 1990 compared to 1989 and in the first quarter of 1991 compared to the same quarter in 1990, AR 13.

On reconsideration, the Department obtained a list of secondary customers (industrial users and metals dealers) to whom the parent company sells Kellogg's production, AR 21. The responding customers accounted for sixty percent of all the silver sales in 1990 by the parent company. The survey revealed that none of the respondents increased their purchases of imports while decreasing their purchases from Sunshine. Customer comments indicated that they would still buy silver from Sunshine had it continued in business. Customers who lost business with Sunshine shifted to other domestic sources, AR 28.

Reconsideration findings show that Kellogg's refinery did not toll for domestic or foreign accounts nor did the refinery import concentrates during the period relevant to the petition.

Other findings show that the domestic production of silver remained essentially unchanged in 1990 despite a drop in the average price, AR 34. A decline in price, however, is not a criterion on which a worker group certification is based.

Other findings on reconsideration show that mining companies with a relative high cost of operation have suffered because of an excess supply causing a lower price for silver. The findings show that industry analysts have attributed the drop in silver prices to a lack of industrial demand and investor fears that the U.S. economy is entering a recession which would limit any future increase in industrial demand.

Also, the reconsideration findings show that the Federal Government contributed to the excess supply of silver. Beginning in fiscal year (FY) 1990, the U.S. Treasury disposed of over 2,500,000 troy ounces of silver in four auctions, AR 34. An additional amount of silver was disposed of in FY 1991. In other silver transactions the Government continued to dispose of silver held in the National Defense Stockpile. The findings also show that silver substitutes have been found in table flatware, surgical plates, pins and sutures, electronics, photography, mirrors and other reflecting surfaces and batteries, AR 34.

The ASARCO Certification for workers in Wallace, Idaho (TA-W-25,523) would not provide a basis for the certification of workers at Sunshine Mining. The ASARCO worker group met all the Group Eligibility Requirements of the Trade Act including the "contributed importantly" test. The findings show that the ASARCO refinery, to which the Wallace mine sent its production of silver and copper concentrates, increased its imports of silver concentrates in 1990 compared to 1989.

Conclusion

After reconsideration, I affirm the original notice of negative determination to apply for adjustment assistance to workers and former workers of Sunshine Mining Company in Kellogg, Idaho.

Signed at Washington, DC, this 13th day of October 1992.

Stephen A. Wandner,

Deputy Director, Office of Legislation & Actuarial Service, Unemployment Insurance Service.

[FR Doc. 92-25793 Filed 10-22-92; 8:45 am]

BILLING CODE 4510-30-M

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under title II, chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than November 2, 1992.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than November 2, 1992.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210.

Signed at Washington, DC, this 13th day of October 1992.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

Appendix

Petitioner (union/workers/firm)	Location	Date received	Date of petition	Petition number	Articles produced
Valley Dress Mfg. Co (Wkrs)	Pittston, PA	10/13/92	9/22/92	27,889	Ladies' Dresses and Suits.
Lenox Crystal (AFGU)	Mt. Pleasant, PA.	do	9/25/92	27,890	Crystal and Stem Ware.
Red Eagle Resources Corp (Wkrs)	Oklahoma City, OK.	do	9/28/92	27,891	Oil and Gas Drilling.
Reynolds Cable Plant (AFLCIO)	Longview, WA.	do	9/29/92	27,892	Insulated Cable.
Yegan Associates, Inc (Wkrs)	Schaumburg, IL.	do	9/18/92	27,893	Installment Loans.
Telemecanique (Wkrs)	Westminster, MD.	do	9/30/92	27,894	Electrical Controls.
Wayne H. Mullin Shoe Patterns (Co)	Avon, MA	do	9/28/92	27,895	Shoe Patterns.
Guardian/Qualex (Wkrs)	Harvey, IL	do	10/02/92	27,896	Developed and Printed Photographs.
Paterson Pallets Co., Inc (Wkrs)	Paterson, NJ	do	9/30/92	27,897	Wooden Pallets.
Cambria & Indiana Railroad Co (USWA)	Colver, PA	do	9/29/92	27,898	Railroad Car Repairs.
Chevron Overseas Petroleum, Inc. (Co)	San Ramon, CA.	do	10/02/92	27,899	Oil and Gas.
Vesuvius Lava (Wkrs)	Zelienople, PA.	do	9/28/92	27,900	Foundries Products.
LPL, Amphenol Corp (IAM)	Sidney, NY	do	9/30/92	27,901	Electrical Connectors.
Dana Fashions, Inc., (ILGWU)	Brent, AL	do	9/28/92	27,902	Ladies' Dress Coats.
Wolchem, Inc. (Wkrs)	Houston, TX	do	9/16/92	27,903	Oilfield Chemicals.
Howard Industries (Wkrs)	Dunlap, TN	do	9/29/92	27,904	Ladies Apparel.

[FR Doc. 92-25746 Filed 10-22-92; 8:45 am]

BILLING CODE 4510-30-M

Employment Standards Administration

Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and are based on the information obtained by the Department of Labor from its study of local wage conditions and data made available from other sources. They specify the basic hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar character and in the localities specified therein.

The determinations in these decisions of prevailing rates and fringe benefits have been made in accordance with 29 CFR part 1, by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR part 1, appendix, as well as such additional statutes as may from time to time be enacted containing provisions for the payment of wages determined to be prevailing by the Secretary of Labor in accordance with the Davis-Bacon Act. The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public comment procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue current construction industry wage determinations frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions, and modifications and supersedeas decisions thereto, contain

no expiration dates and are effective from their date of notice in the Federal Register, or on the date written notice is received by the agency, whichever is earlier. These decisions are to be used in accordance with the provisions of 29 CFR parts 1 and 5. Accordingly, the applicable decision, together with any modifications issued, must be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR part 5. The wage rates and fringe benefits, notice of which is published herein, and which are contained in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under the Davis-Bacon and Related Acts," shall be the minimum paid by contractors and subcontractors to laborers and mechanics.

Any person, organization, or governmental agency having an interest in the rates determined as prevailing is encouraged to submit wage rate and fringe benefit information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Division of Wage Determinations, 200 Constitution Avenue, NW., room S-3014, Washington, DC 20210.

Withdrawn General Wage Determination Decision

This is to advise all interested parties that the Department of Labor is withdrawing, from the date of this notice, General Wage Determination No. MT91-3, dated Feb. 22, 1991.

Agencies with construction pending projects, to which this wage decision would have been applicable, should utilize the project determination procedure by submitting a SF-308. (See Regulations, 29 CFR part 1, § 1.5.) Contracts for which bids have been opened shall not be affected by this notice. Also, consistent with 29 CFR 1.6(c)(2)(i)(A), when the opening of bids is within ten (10) days of this notice, the contract specifications need not be affected.

Modifications to General Wage Determination Decisions

The numbers of the decisions listed in the Government Printing Office document entitled "General Wage Determinations Issued Under the Davis-Bacon and Related Acts" being modified are listed by Volume, State, and page number(s). Dates of publication in the Federal Register are in parentheses following the decisions being modified.

Volume I

New York:
NY91-2 (Feb. 22, 1991) ..... p. 777, p. 778.

Tennessee:
TN91-5 (Feb. 22, 1991) ..... p. All.

Virginia:
VA91-34 (Feb. 22, 1991) ..... p. All.

Volume II

Indiana:
IN91-1 (Feb. 22, 1991) ..... p. 243, p. 247.

Iowa:
IA91-5 (Feb. 22, 1991) ..... p. All.

Missouri:
MO91-1 (Feb. 22, 1991) ..... p. 651, p. 652.

Volume III

Colorado:
CO91-14 (Feb. 22, 1991) ..... p. All.

Washington:
WA91-5 (Feb. 22, 1991) ..... p. All.

Wyoming:
WY91-9 (Feb. 22, 1991) ..... p. All.

General Wage Determination Publication

General wage determinations issued under the Davis-Bacon and related Acts, including those noted above, may be found in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under The Davis-Bacon And Related Acts". This publication is available at each of the 50 Regional Government Depository Libraries and many of the 1,400 Government Depository Libraries across the country. Subscriptions may be purchased from: Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, (202) 783-3238.

When ordering subscription(s), be sure to specify the State(s) of interest, since subscriptions may be ordered for any or all of the three separate volumes, arranged by State. Subscriptions include an annual edition (issued on or about January 1) which includes all current general wage determinations for the States covered by each volume. Throughout the remainder of the year, regular weekly updates will be distributed to subscribers.

Signed at Washington, DC, this 16th day of October 1992.

Alan L. Moss,

Director, Division of Wage Determinations.

[FR Doc. 92-25530 Filed 10-22-92; 8:45 am]

BILLING CODE 4510-27-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 92-67]

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: November 16, 1992, 1 p.m. to 5 p.m.; and November 17, 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 K. Kraemer, 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 Vision, Mission, and Values.
—Committee Reports.
—Space Technology: Status and Prospects.

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: October 19, 1992.

John W. Gaff,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 92-25747 Filed 10-22-92; 8:45 am]

BILLING CODE 7510-01-M

[Notice 92-68]

NASA Advisory Council Task Force on NASA's Education Programs; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92-463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council Task Force on NASA's Education Programs.

DATES: November 16, 1992, 9 a.m. to noon.

ADDRESSES: National Aeronautics and Space Administration, room 7002, Federal Office Building 6, 400 Maryland Avenue, SW., Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Dr. Sylvia K. Kraemer, 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 contains only one item, which is a review and discussion of the NASA Education Strategic Plan. It is imperative that the meeting be held on this date to accommodate the scheduling priorities of the key participants. Visitors will be requestedto sign a visitor's register.

Dated: October 19, 1992.

John W. Gaff,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 92-25748 Filed 10-22-92; 8:45 am]

BILLING CODE 7510-01-M

NATIONAL COMMISSION ON ACQUIRED IMMUNE DEFICIENCY SYNDROME

Request for Written Submissions

The National Commission on AIDS proposes to develop recommendations on actions that should be taken by the Executive and Legislative branches of government in early 1993 to enhance the national response to the challenges of the HIV/AIDS epidemic. In developing these recommendations the Commission will use information already received through its public hearings and prior Commission reports.

The Commission is committed to hearing views from all interested parties and therefore will consider written submissions from those wishing to provide further information and suggestions. Submissions (2 copies) may be of any length (and include supporting documents) but must include a two-page summary listing specific recommendations directed to Executive and Legislative branches. All material received will be part of the Commission's record and available for public review upon request.

Submissions should be sent to: Roy Widdus, Ph.D., Executive Director, National Commission on AIDS, 1730 K Street NW., Suite 815, Washington, DC 20006, to be received no later than November 23, 1992.

Dated: October 20, 1992.

Roy Widdus,

Executive Director.

[FR Doc. 92-25769 Filed 10-22-92; 8:45 am]

BILLING CODE 6820-CN-M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Biological Instrumentation and Resources; Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92-463, as amended), the National Science Foundation announces the following meeting.

Date and Time: Thursday, November 5, 1992; 8:30 a.m.-6 p.m. Friday, November 6, 1992; 8:30 a.m.-6 p.m.

Place: Copley Square Hotel, 47 Huntington Avenue, Boston, MA 02116.

Type of Meeting: Closed.

Contact Person: Michael Lamvik, Program Director, Division of Instrumentation and Resources, rm 312, National Science Foundation, 1800 G St. NW., Washington, DC 20550. Telephone: (202) 202/357-7652.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate research proposals as part of the selection process for awards..

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: October 20, 1992.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 92-25738 Filed 10-22-92; 8:45 am]

BILLING CODE 7555-01-M

Advisory Panel for Ethics and Values Studies; Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92-463, as amended), the National Science Foundation announces the following meeting.

Date and Time: November 12 and 13, 1992, 8:30 a.m. to 5:00 p.m.

Place: 1110 Vermont Avenue, NW., room 500B.

Type of Meeting: Closed.

Contact Person: Rachelle Hollander, Program Director, Ethics and Values Studies, National Science Foundation, 1800 G St. NW., Washington, DC 20550. Telephone: (202) 357-9894, room 312.

Purpose of Meeting: To Provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: October 20, 1992.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 92-25737 Filed 10-22-92; 8:45 am]

BILLING CODE 7555-01-M

Advisory Panel for History and Philosophy of Science; Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92-463, as amended), the National Science Foundation announces the following meeting.

Date and Time: November 6 and 7, 1992, 8:30 a.m. to 5:00 p.m.

Place: 1110 Vermont Avenue, NW., room 500A.

Type of Meeting: Closed.

Contact Person: Ronald J. Overmann, Program Director, History and Philosophy of Science, National Science Foundation, 1800 G St. NW., Washington, DC 20550. Telephone: (202) 357-9894, room 320.

Purpose of Meeting: To Provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: October 20, 1992.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 92-25736 Filed 10-22-92; 8:45 am]

BILLING CODE 7555-01-M

Advisory Panel for Sociology; Meeting

In accordance with the Federal Advisory Committee Act (Public Law 92-463, as amended), the National Science Foundation announces the following meeting:

Name: Advisory Panel for Sociology.

Date and Time: November 11, 1992, 8:30 a.m. to 6 p.m., November 12, 1992, 8:30 a.m. to 6 p.m.

Place: Room 1242, National Science Foundation, 1800 G Street, NW., Washington, DC 20550.

Type of Meeting: Closed.

Contact Persons: Dr. William S. Bainbridge, Program Director, Dr. Patricia E. White, Associate Program Director, 1800 G Street, NW., room 336, Washington, DC 20550, Telephone: 202/357-7802.

Purpose of Meeting: To provide advice and recommendations concerning research proposals submitted to NSF for financial support.

Agenda: To review and evaluate unsolicited research proposals submitted to or being jointly considered by the Sociology Program as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b (c) (4) and (6) of the Government in the Sunshine Act.

Dated: October 20, 1992.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 92-25739 Filed 10-22-92; 8:45 am]

BILLING CODE 7555-01-M

NUCLEAR REGULATORY COMMISSION

Abnormal Occurrence Report; Section 208 Report Submitted to the Congress

Notice is hereby given that pursuant to the requirements of section 208 of the Energy Reorganization Act of 1974, as amended, the Nuclear Regulatory Commission (NRC) has published and issued another periodic report to Congress on abnormal occurrences (NUREG-0090, Vol. 15, No. 2).

Under the Energy Reorganization Act of 1974, which created the NRC, an abnormal occurrence is defined as "an unscheduled incident or event that the Commission (NRC) determines is significant from the standpoint of public health or safety." The NRC has made a determination that events involving an actual loss or significant reduction in the degree of protection against radioactive properties of source, special nuclear, and by-product material are abnormal occurrences.

The report to Congress is for the second calendar quarter of 1992. The report identifies the occurrences or events that the Commission determined to be significant and reportable; the remedial actions that were undertaken are also described.

Five abnormal occurrences are discussed in this report. One involved an extended loss of high-head safety injection capability at the Shearon Harris Nuclear Power Plant. The other four involved medical misadministrations (three therapeutic and one diagnostic) at NRC-licensed facilities. No abnormal occurrences were reported by NRC's Agreement States. The report also contains information updating a previously reported abnormal occurrence.

A copy of the report is available for inspection or copying for a fee at the NRC Public Document Room, 2120 L Street NW. (Lower Level), Washington, DC 20555, or at any of the nuclear power plant Local Public Document Rooms throughout the country.

Copies of NUREG-0090, Vol. 15, No. 2 (or any of the previous reports in this series), may be purchased from the Superintendent of Documents, U.S. Government Printing Office, Post Office Box 37082, Washington, DC 20013-7082. A year's subscription to the NUREG-0090 series publication, which consists of four issues, is also available.

Copies of the report may also be purchased from the National Technical Information Service, U.S. Department of Commerce, 5285 Port Royal Road, Springfield, VA 22161.

Dated at Rockville, MD, this 19th day of October, 1992.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 92-25728 Filed 10-22-92; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-346]

Toledo Edison Co., Cleveland Electric Illuminating Co., and Centerior Service Co.; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an exemption from the requirements of appendix R to 10 CFR part 50 in response to a request filed by Toledo Edison Company, The Cleveland Electric Illuminating Company, and Centerior Service Company (the licensees), for operation of the Davis-Besse Nuclear Power Station, Unit No. 1 (DBNPS), located in Ottawa County, Ohio.

Environmental Assessment

Identification of Proposed Action

The proposed exemption would allow redundant trains of safe shutdown circuits in the containment annulus to not be separated by a 3-hour rated fire barrier.

The proposed action is in accordance with the licensee's application of exemption dated May 18, 1990.

The Need for the Proposed Action

The containment annulus is an approximately 4.5-foot-wide space between the shield building and the containment vessel which extends completely around and above the containment vessel. Cables and piping pass through the annulus on their way from the auxiliary building to equipment inside the containment vessel. Modification of the current annulus fire protection features would result in considerable expenditure of engineering, construction, and plant staff resources for its installation, maintenance, and surveillance.

Environmental Impacts of the Proposed Action

The license has provided justification for the exemption demonstrating that the existing fire protection features for the containment annulus provide an equivalent level of protection from a fire. On this basis, there are no changes in the manner of the plant operation in the event of a fire. Therefore, there will be no increase in either the probability or the amount of radiological release from the Davis-Besse plant in the event of a fire.

Accordingly, the NRC staff concludes that this proposed action would result in no significant radiological environmental impact.

With regard to potential nonradiological impacts, the proposed exemption will not cause significant increase in the nonradiological impacts and will not change any conclusions reached by the NRC staff in the "Final Environmental Statement for the Davis-Besse Nuclear Power Station, Unit No. 1" dated March 1973 and its supplement dated October 1975. Therefore, the NRC staff concludes that there are no significant nonradiological environmental impacts associated with the proposed exemption.

Alternative to the Proposed Action

Because the Commission's staff has concluded that there are no significant environmental impacts associated with the proposed action, any alternatives would have either no significantly

different environmental impact or greater environmental impact.

The principal alternative would be to deny the requested exemption. This would not reduce environmental impacts as a result of plant operations.

Alternative Use of Resources

This action does not involve the use of any resources not previously considered in the "Final Environmental Statement for the Davis-Besse Nuclear Power Station, Unit 1" dated March 1973 and its supplement dated October 1975.

Agencies and Persons Consulted

The NRC staff reviewed the licensee's request and did not consult other agencies or persons.

Finding of No Significant Impact

The Commission has reviewed the proposed exemption to 10 CFR part 50, appendix R, relative to the 10 CFR part 51 requirements.

Based upon the foregoing environmental assessment, the staff concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the Commission has determined, pursuant to 10 CFR 51.31, not to prepare an environmental impact statement for the proposed action.

For further details with respect to this action, see the request for exemption dated May 18, 1990, which is available for public inspection at the Commission's Public Document Room, 2120 L Street, NW., Washington, DC and at the University of Toledo Library, Documents Department, 2081 Bancroft Avenue, Toledo, Ohio 43606.

Dated at Rockville, Maryland, this 15th day of October 1992.

For the Nuclear Regulatory Commission.

Jon B. Hopkins,

Acting Director, Project Directorate III-3, Division of Reactor Projects—III/IV/V, Office of Nuclear Reactor Regulation.

[FR Doc. 92-25716 Filed 10-22-92; 8:45 am]

BILLING CODE 7590-01-M

Public Workshop To Exchange Information and Lessons Learned in Remediating Radioactively Contaminated Sites

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of public workshop.

SUMMARY: This notice is to inform the public of a workshop to exchange information and review lessons learned in remediating radioactively contaminated sites. Interested individuals may attend a public workshop on November 19, 1992, at the Potomac Inn, 3 Research Court, Rockville, Maryland 20850, telephone (301) 840-0200. The workshop will begin at 8:30 a.m. and continue until about 5:30 p.m.

Background

In 1990, the NRC developed the Site Decommissioning Management Plan (SDMP) to identify and resolve issues associated with the timely cleanup of radiologically contaminated sites. The NRC staff determined that these sites deserved special attention to ensure they were decontaminated and decommissioned in a timely and effective manner. Over 40 sites are now included in the SDMP. The SDMP sites have buildings, former waste disposal areas, large piles of tailings from mineral processing, groundwater, and soil contaminated with low levels of uranium, thorium, or other radioactive materials. Consequently, the sites present varying degrees of radiological hazard, cleanup complexity, and cost. In some cases, decommissioning activities have been initiated, or are nearing completion; at others, decommissioning plans have not been made and no work has been started.

In April 1992, the NRC developed an "Action Plan to Ensure Timely Cleanup of SDMP sites," which was published in the **Federal Register** on April 16, 1992 (57 FR 13389). The objective of the plan was to communicate the Commission's general expectation that sites listed in the SDMP be cleaned up in a timely and effective manner. As part of the implementation of the Action Plan, the NRC identified the need to convene a workshop, involving licensees and other parties responsible for the SDMP sites, to facilitate sharing of lessons learned in characterizing and cleaning up contaminated sites.

Conduct of the Workshop

The workshop will be held on November 19, 1992, to exchange information with the regulated community, interested parties, and members of the public on the issues associated with remediation of radiologically contaminated sites listed in the SDMP.

Speakers from the NRC will include senior NRC management responsible for establishing decommissioning policy, as well as staff from NRC's Office of Nuclear Material Safety and Safeguards, who are directly involved in managing the SDMP and in overseeing the cleanup of SDMP sites. Presentations will also be made by NRC's Office of Nuclear Regulatory and others on current projects to develop and improve guidance for site decommissioning. NRC speakers will address the following issues:

1. Site Decommissioning Management Plan,
2. Status of decommissioning activities,
3. The SDMP Action Plan,
4. Interim cleanup criteria for radiological contamination,
5. Guidance on termination radiation surveys, and
6. Coordination with local and other regulatory authorities.

Discussions about the interim cleanup criteria are separate and distinct from the workshops NRC has planned in support of the enhanced participatory rulemaking on radiological criteria for decommissioning. An NRC representative will, however, describe the status of NRC's plans for the enhanced participatory rulemaking. NRC has also planned a panel discussion led by NRC licensees involved in the site decommissioning process.

Presentations during the workshop will be limited to invited speakers. All attendees are encouraged to participate in question-and-answer sessions after each series of presentations, as well as in the small group breakout sessions to discuss specific issues. Persons who wish to include specific topics in the workshop should contact Mr. Harvey Spiro at the address listed below.

FOR FURTHER INFORMATION CONTACT: Harvey J. Spiro, Decommissioning and Regulatory Issues Branch, Division of Low-Level Waste Management and Decommissioning, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 504-2559.

Dated at Rockville, MD, this 16th day of October 1992.

For the Nuclear Regulatory Commission.

Michael F. Weber,

Acting Chief, Decommissioning and Regulatory Issues Branch, Division of Low-Level Waste Management and Decommissioning, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 92-25715 Filed 10-22-92; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 030-00320, Lic. No. 24-05592-01; 999-90003, Non-Licensee EA 92-172]

Order To Transfer Byproduct Material to Authorized Recipient (Effective Immediately)

In the Matter of St. Joseph Radiology Assoc., Inc., and Joseph L. Fisher, M.D. d.b.a.

St. Joseph Radiology Assoc., Inc., and Fisher Radiological Clinic

I

St. Joseph Radiology Associates, Inc. (Licensee) is the holder of Byproduct Material License No. 24–05592–01 issued by the Nuclear Regulatory Commission (NRC or Commission) pursuant to 10 CFR parts 30 and 35. The license, as amended July 20, 1990, based on a June 27, 1990, letter, under the letterhead of Fisher Radiological Clinic, signed by Dr. Joseph L. Fisher, authorized the possession and storage of up to 3000 curies of cobalt-60, as a sealed source model designation Picker Corp. P3801A (byproduct material). The license was originally issued on August 11, 1959, to Dr. Fisher. On August 21, 1969, the license was renewed under the name of Fisher Radiological Group. On January 31, 1980, the license was renewed under the name of St. Joseph Radiology Associates, Inc. The license is due to expire on July 31, 1993. However, the NRC was informed by Dr. Fisher, who was listed as the Licensee's Radiation Safety Officer (RSO), that St. Joseph Radiology Associates, Inc. is defunct and no longer exists as a legal entity. Since the dissolution of the Licensee, the byproduct material has remained in the possession of Dr. Fisher. Dr. Fisher does not have a license for possession of the byproduct material.

II

Dr. Fisher retains control over the byproduct material (which at present is approximately 600 curies of cobalt-60 as a sealed source contained in a Picker Corporation Model 6202 (V/3000) teletherapy unit) located at 702 Jules Street, St. Joseph, Missouri, the licensed location of use since the issuance of the license.

During the week of June 16, 1991, the NRC contacted Dr. Fisher to determine the status of the byproduct material, and whether or not an inspection was warranted. The NRC learned that Dr. Fisher intended to divest himself of the byproduct material.

On March 6, 1992, the NRC again contacted Dr. Fisher to determine the status of the byproduct material. Dr. Fisher informed the NRC that the Licensee had dissolved, and that the byproduct material was still in storage and appropriately secured at 702 Jules Street, St. Joseph, Missouri. Dr. Fisher also informed the NRC that the Licensee had no funds to dispose of the byproduct material, and that he had not made plans to dispose of it.

On March 17, 1992, the NRC again contacted Dr. Fisher to verify the status of the Licensee, and obtain information about the parties responsible for the disposition of the byproduct material. Dr. Fisher confirmed that the Licensee had dissolved, but refused to give the NRC information as to how to contact the other former corporate owners.

On May 18, 1992, the NRC issued a Notice of Violation (Notice) to Dr. Fisher pursuant to 10 CFR 30.3 for possession of byproduct material without a license. Dr. Fisher responded to the Notice on May 27, 1992, stating that he did not possess the byproduct material, and that it belonged to the Licensee. However, he stated again in the letter that the Licensee was defunct. Dr. Fisher also stated that the byproduct material was in a locked room in the building where he practices medicine and requested information regarding the cost of a byproduct material license.

On July 10, 1992, the NRC wrote to Dr. Fisher requesting further information in response to the Notice. The NRC explained, in this correspondence, the difference between possessing and owning byproduct material. In addition, the NRC provided Dr. Fisher with information regarding the cost of obtaining a byproduct material license for the byproduct material in his possession.

Dr. Fisher responded on July 15, 1992, stating that the byproduct material was not stored on his property, that the property was owned by a building corporation, and that he simply rented space in the building where the byproduct material was located. Dr. Fisher also stated he did not have the funds to obtain a byproduct material license.

On August 5, 1992, the NRC contacted Dr. Fisher by telephone to discuss the control and security of the byproduct material. Dr. Fisher initially denied that he controlled the byproduct material. Dr. Fisher stated that he was unsure if he had a key, and he did not know who else might have the key, to the door of the room where the byproduct material was located. Dr. Fisher stated he would obtain the services of a locksmith to change the lock on that door, and agreed to supervise the locksmith while the byproduct material was accessible. Dr. Fisher also stated he would maintain control over the new key. Dr. Fisher stated that he neither used nor intended to use the byproduct material, but was reluctant to expend the funds to properly dispose of or transfer the byproduct material.

On August 12, 1992, the NRC conducted an onsite inspection of Dr. Fisher's facility at 702 Jules Street. The inspectors verified that the described teletherapy unit containing byproduct material is located in a medical suite occupied and controlled by Dr. Fisher. The inspectors determined by observation that Dr. Fisher had the lock to the teleherapy unit room door changed and had the key in his possession. The byproduct material was secured in a locked room and the unit could not be operated without the control console key, which appears to be lost. The last known use of the console was in April 1990. An identification tag on the unit identified the byproduct material as 2761 curies of cobalt-60 on February 1, 1981, AMS Serial No. 2406.

Dr. Fisher stated to the inspectors that he had contacted a vendor regarding removal of the unit and that he could not afford the estimated cost. Dr. Fisher also stated that he had contacted Dr. Stevens at Heartland Hospital in St. Joseph, Missouri, to inquire if the hospital wanted the unit. Dr. Fisher stated that Heartland Hospital may be interested in acquiring his unit as a backup unit, and that a hospital board was to make the final decision in September. After the inspection, the NRC contacted Dr. Stevens who stated that, contrary to Dr. Fisher's representation to the NRC, he told Dr. Fisher that the hospital did not want the unit. Dr. Stevens stated that the hospital was planning for the removal of its own teletherapy unit.

III

Dr. Fisher remains in possession of NRC-regualted radioactive material without a license. This is prohibited by section 81 of the Atomic Energy Act of 1954, as amended, and by 10 CFR 30.3, which state that, except for persons exempt as provided in 10 CFR parts 30 and 150, no person shall possess or use byproduct material except as authorized in a specific or general NRC license. Furthermore, the licensee, through Dr. Fisher, also has violated the requirements of 10 CFR 30.36 which requires, in part, notification to the NRC when the licensee decides to terminate all activities involving materials authorized under a license. The licensee, through Dr. Fisher, also has apparently violated 10 CFR 30.9 by providing inaccurate or incomplete information concerning the control and possession of the licensee's material.

Given these circumstances and since Dr. Fisher stated he did not use or intend to use the byproduct material, it would not be appropriate to license his possession of the byproduct material, were he to apply for a license.

Dr. Fisher's possession of material without a license, as documented in the May 18, 1992, Notice of Violation, and his unwillingness to transfer the

byproduct material in his possession to an authorized recipient, demonstrate a disregard for NRC requirements. Given those failures and the circumstances surrounding his possession of the byproduct material and his communications with the NRC, including his alleged ability to pay for the proper transfer and disposal of the byproduct material, and the unknown whereabouts of the console key that could expose the source, I lack the requisite reasonable assurance that the health and safety of the public will be protected while Dr. Fisher remains in possession of the radioactive material. Therefore, the NRC has determined that public health and safety require that the byproduct material be properly transferred to an authorized recipient for disposal or licensable use, and that the license should be terminated. Furthermore, pursuant to 10 CFR 2.202, I find that the significance of the violation and conduct of Dr. Fisher described above is such that the public, health, safety, and interest require that this Order be immediately effective.

IV

Accordingly, pursuant to sections 81, 161b, 161i, 161o, 182 and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.202 and 10 CFR parts 30 and 35, *It is hereby ordered,* That:

A. Dr. Fisher continue to maintain safe control over the byproduct material in his possession, by keeping the material in locked storage and limiting any access to the material to himself. No use of the byproduct material is authorized;

B. Dr. Fisher transfer all NRC-regulated material (all cobalt-60 and any depleted uranium in the source head) in his possession to an authorized recipient within 45 days of this Order. If Dr. Fisher believes he does not have sufficient funds to complete the transfer, he must provide, within 30 days of this Order, evidence supporting such a claim by submitting to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555, 1) an estimate of the cost of the transfer and the basis for the estimate, including the license number and identity of the person who would perform the transfer; 2) written statements from at least two banks stating that Dr. Fisher could not qualify for a loan to pay for the transfer; 3) copies of Federal income tax returns for the years ending 1991, 1990, and 1989 for Dr. Fisher, St. Joseph Radiology Associates, Inc., and Fisher Radiological Clinic; 4) copies of profit and loss statements from St. Joseph Radiology Associates, Inc. and Fisher Radiological Clinic for those same years; and 5) the names and addresses of all former and current officers, partners, and stockholders of Dr. Fisher, St. Joseph Radiology Associates, Inc., and Fisher Radiological Clinic;

C. Dr. Fisher notify NRC Region III at least two working days prior to the date of the transfer so that NRC may, if it elects, observe the transfer of this material to an authorized recipient;

D. Dr. Fisher, within seven days following the completion of the transfer, shall provide to the Regional Administrator, Region III: 1) confirmation in writing (NRC Form 314) that the radioactive material has been transferred; 2) a copy of the leak rate test performed prior to the transfer; and 3) a copy of the certification from the authorized recipient that the material has been received.

The Regional Administrator, Region III, may, in writing, relax or rescind any of the above conditions, upon demonstration by Dr. Fisher, of good cause.

V

In accordance with 10 CFR 2.202, Dr. Fisher must, and any other person adversely affected by this Order may, submit an answer to this Order, and may request a hearing on this Order, within 20 days of the date of this Order. Unless the answer consents to this Order, the answer shall, in writing and under oath or affirmation, specifically admit or deny each allegation or charge made in the Order and set forth the matters of fact and law on which Dr. Fisher or other person adversely affected relies and the reasons why the Order should not have been issued. Any answer or request for a hearing shall be submitted to the Secretary, U.S. Nuclear Regulatory Commission, Attn: Chief, Docketing and Service Section, Washington, DC 20555. Copies also shall be sent to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555, to the Assistant General Counsel for Hearings and Enforcement at the same address, to the Regional Administrator, NRC Region III, 799 Roosevelt Road, Glen Ellyn, Illinois 60137, and to Dr. Fisher if the answer or hearing request is by a person other than Dr. Fisher. If a person other than Dr. Fisher requests a hearing, that person shall set forth with particularity the manner in which his interest is adversely affected by this Order and shall address the criteria set forth in 10 CFR 2.714(d).

If a hearing is requested by Dr. Fisher or a person whose interest is adversely affected, the Commission will issue an Order designating the time and place of any hearing. If a hearing is held, the issue to be considered at such hearing shall be whether this Order should be sustained.

Pursuant to 10 CFR 2.202(c)(2)(i), 57 FR 20194 (May 12, 1992) Dr. Fisher, or any other person adversely affected by this Order, may, in addition to demanding a hearing, at the time the answer is filed or sooner, move the presiding officer to set aside the immediate effectiveness of the Order on the ground that the Order, including the need for immediate effectiveness, is not based on adequate evidence but on mere suspicion, unfounded allegations, or error.

In the absence of any request for hearing, the provisions specified in section IV above shall be final 20 days from the date of this Order without further order or proceedings. An answer or a request for hearing shall not stay the immediate effectiveness of this order.

For the Nuclear Regulatory Commission.

Dated at Rockville, Maryland, this 16th day of October 1992.

Hugh L. Thompson, Jr.,

Deputy Executive Director for Nuclear Materials Safety, Safeguards, and Operations Support

[FR Doc. 92-25720 Filed 10-22-92; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF SCIENCE AND TECHNOLOGY POLICY

Meeting of the President's Council of Advisors on Science and Technology

ACTION: Notice of meeting.

SUMMARY: The President's Council of Advisors on Science and Technology will meet on November 12-13, 1992. The meeting will begin with an open session at approximately 9 a.m. on Thursday, November 12, 1992, in the Conference Room, Council on Environmental Quality, 722 Jackson Place, NW., Washington, DC, with two substantive agenda item to be discussed. This open session will end at approximately 12 noon. On Thursday afternoon, at approximately 1 p.m., the Council will continue its open session with three substantive agenda items to be discussed. This session will end at approximately 4:30 p.m. On Friday, November 13, 1992, the Council will reconvene in closed session at approximately 9 a.m. with one substantive agenda item to be discussed. This closed session will end at approximately 12 noon on Friday.

Type of Meeting: Open and closed.

Agenda: On Thursday, November 12, there will be a presentation to the Council by Dr. William Spencer regarding SEMATECH. Administrator Daniel Goldin of NASA will also make a presentation regarding current and future NASA projects. On Thursday afternoon, the Council will hear a presentation regarding the ORAU Report on Electromagnetic Fields. The Council will also hold discussions regarding: (1) The Project on U.S. Research Intensive Colleges and Universities; (2) Proposed topics for 1993 PCAST Panels and Summer Retreat; and (3) the 1993 PCAST Strategic Plan.

During the closed session on Friday, November 13, the Council will discuss the National Institutes of Health Strategic Plan Program, with a possible presentation by a senior NIH administrator. This portion of the meeting will be closed to the public, pursuant to title 5, U.S. Code, section 552b(c) (4), (6) & (9)(B).

For information regarding time, place and agenda, and for those wishing to attend the open portion of the meeting, please contact Ms. Ann Barnett, (202) 395–4692, prior to 3 p.m. on November 11, 1992. Other questions can be directed to Dr. Alicia K. Dustira, (202) 395–4692.

Dated: October 19, 1992.

Dr. Vickie V. Sutton,

Assistant Director, Office of Science and Technology Policy.

[FR Doc. 92–25799 Filed 10–22–92; 8:45 am]

BILLING CODE 3170–01–M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Implementation of the Accelerated Tariff Elimination Provision of the United States-Canada Free-Trade Agreement

AGENCY: Office of the United States Trade Representative.

ACTION: Supplemental notice of and request for comments on articles under consideration for negotiations with the Government of Canada for accelerated tariff elimination.

SUMMARY: Section 210(b) of the United States-Canada Free-Trade Agreement Implementation Act of 1988 ("FTA Implementation Act") grants the President, subject to consultation and layover requirements of section 103 of that Act, the authority to proclaim any accelerated schedule for duty elimination that may be agreed to by the United States and Canada under FTA Article 401(5). On September 4, 1992, notice was issued (57 FR 40720) of articles that may be the subject of negotiation between the United States and Canada for accelerated tariff elimination. That notice is amended to include additional articles that may be the subject of such negotiations.

DATES: Public comments are due November 2, 1992.

ADDITIONAL INFORMATION: Further information on this subject may be found in the **Federal Register** notice of September 4, 1992, Volume 57, Number 173, at pages 40720 through 40727. Inquiries regarding this notice or relating to implementation of accelerated tariff elimination under the FTA should be directed to Mr. P. Claude Burcky, Office of North American Affairs, Office of the U.S. Trade Representative, room 501, 600 17th Street, NW., Washington, DC 20506, Telephone (202) 395–3412.

Additional Articles That May Be Considered in Negotiations

The notice of September 4, 1992, is amended as follows:

The following subheadings of the Tariff Schedules of the United States are added in numerical order to Annex I:

2613.10.00
7306.60.10*
7306.60.50*
7318.23.00*
7411.10*
8418.40.00
9007.91.80*

II. The following subheadings of the Customs tariff of Canada are added in numerical order to Annex II:

2403.91.10*
7306.60.10*
7318.23.00*
7411.10.10*
8418.40.00
9007.91.90*

III. In Annex II, "7323.99.90" is corrected to read "7323.99.00", and the asterisk is deleted from subheadings 8418.91.20 and 8418.99.30.

The notice of September 4, 1992, indicated that a supplemental document listing specific products to be considered for accelerated tariff elimination, where the subheading is listed in Annexes I and II with an asterisk, may be obtained from specified offices in the Department of Agriculture, the Department of Commerce, and the Office of the U.S. Trade Representative. Those documents are amended as follows:

I. The Supplement to Annex I in the **Federal Register** Notice of September 4, 1992, is amended:

A. By adding the following in numerical order:

5603.00.30 Nonwovens solely of polyesters, suitable to be employed in the manufacture of printed circuit boards
Nonwovens suitable for use in the manufacture of sanitary towels, diapers, or panty liners
Nonwovens of polypropylene
Nonwovens of polyester
5603.00.90 Nonwovens suitable for use in the manufacture of sanitary towels, diapers, or panty liners
Nonwovens of polypropylene
Nonwovens of polyester
7306.60.10 Aluminized welded steel tubes, pipes, and hollow profiles
7306.60.50 Aluminized welded steel tubes, pipes, and hollow profiles
7318.23.00 Blind rivets
7411.10 Unworked copper tubing suitable for use in refrigeration units or air conditioners
8418.99.00 Refrigeration condensing units
Water-cooled condensers
8716.90.50 Hubs for tractor trailers
Brake drums for tractor trailers
9007.91.80 Viewfinder eye cushions for cinematographic cameras
9032.89 Light bases suitable for use in airfield lighting applications

B. By modifying certain article descriptions of the following subheadings to read as indicated:

2106.90.60 Prepared meals with not less than 10% and not more than 20% meat, not dehydrated and not requiring refrigeration, in vacuum sealed airtight pouches or trays
3920.92.00 Polyamide film suitable to be employed in the manufacture of printed circuit boards
5603.00.90 Nonwovens of polyester or rayon fibers, suitable for use in fabric softener sheets
Nonwovens solely of polyesters, suitable to be employed in the manufacture of printed circuit boards
8418.91.00 Furniture designed for goods of subheading 8418.10.00, 8418.30.00, or 8418.40.00, or for drinking water coolers, self-contained, or unit coolers of subheading 8418.69.00
8418.99.00 Parts of freezers of subheading 8418.30.00 or 8418.40.00

II. The Supplement to Annex II in the **Federal Register** Notice of September 4, 1992, is amended:

A. By adding the following in numerical order:

2403.91.10 Cigar binders
5603.00.90 Nonwovens for use in the manufacture of sanitary towels, napkins (diapers) and panty liners
Nonwovens of polypropylene
Nonwovens of polyester
7306.60.10 Aluminized welded steel tubes, pipes, and hollow profiles

7318.23.00 Blind rivets

7411.10.10 Copper tubing, refined, for refrigeration units or air conditioners

8418.99.50 Refrigeration condensing units

Water-cooled condensers

8716.90.90 Hubs for tractor trailers

Brake drums for tractor trailers

9007.91.90 Viewfinder eye cushions for cinematographic cameras

9032.89.90 Light bases used in airfield lighting applications

B. By modifying certain article descriptions of the following subheadings to read as indicated:

2106.90.90 Prepared meals with not less than 10% and not more than 20% meat, not dehydrated and not requiring refrigeration, in vacuum sealed airtight pouches or trays

5603.00.90 Nonwovens of polyester or rayon fibers used in the manufacture of fabric softener sheets

Nonwovens solely of polyesters, to be employed in the manufacture of printed circuit boards

C. By deleting subheadings 8418.91.20 and 8418.99.30 and their accompanying article descriptions.

Requests for Comments

Comments supporting or opposing accelerated U.S. or Canadian duty elimination on articles provided for in the tariff subheadings listed in Annex I or Annex II of the notice of September 4, 1992, as hereby amended, will be accepted until November 2, 1992, if submitted in accordance with 15 CFR part 21003 and the requirements set forth in that notice.

Advice of the United States International Trade Commission

The United States International Trade Commission is being furnished with the above list of articles added to Annex I of the notice of September 4, 1992, for the purpose of securing from the Commission its judgment as to the probable economic effect of accelerated elimination of United States duties on industries producing like or directly competitive articles and on consumers.

Advice of the Private Sector Advisory Committees

Pursuant to section 103(a)(1) of the FTA Implementation Act, private sector advisory committees are being furnished with the above list of articles added to Annexes I and II of the notice of September 4, 1992, for the purpose of securing their advice.

Articles That May Be Considered in Negotiations

Except as noted, all articles provided for in the subheadings of the Harmonized Tariff Schedule of the United States that are listed in Annex I to the notice of September 4, 1992, as amended by this notice, and in the subheadings of the Customs Tariff of Canada that are listed in Annex II, as amended by this notice, may be subject to negotiations with Canada for accelerated duty elimination. A description of the articles provided for in the tariff subheadings listed in Annex I can be obtained by consulting the "Harmonized Tariff Schedule of the United States (1992)," U.S. International Trade Commission Publication 2449. The "Customs Tariff" of Canada should be consulted for the description of the articles provided for in the tariff subheadings listed in Annex II.

Charles E. Roh, Jr.,

Assistant U.S. Trade Representative for North American Affairs.

[FR Doc. 92-25701 Filed 10-21-92; 11:42 am]

BILLING CODE 3190-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-31330; File No. SR-AMEX-92-13]

Self-Regulatory Organizations; Order Approving Proposed Rule Changes by the American Stock Exchange, Inc. Relating to Position Limits for Institutional Index Options Settled Based on the Opening Prices of Component Securities

October 16, 1992.

I. Introduction

On June 4, 1992, the American Stock Exchange, Inc. ("AMEX" or "Exchange") submitted to the Securities and Exchange Commission ("Commission" or "SEC"), pursuant to section 19(b) of the Securities Exchange Act of 1934 ("Act") [1] and Rule 19b-4 thereunder,[2] a proposal to raise position and exercise limits for European-style Institutional Index ("XXI") options that settle based on the opening prices of XXI-component securities and to broaden the existing hedge exemptions from position limits. The proposal would also gradually phase-out all XII options where the settlement value upon expiration is based on the closing prices of component securities.[3]

Notice of the proposed rule changes were published for comment and appeared in the **Federal Register** on July 9, 1992.[4] One comment letter was received on the proposed rule change by the AMEX before the Exchange transmitted the proposal to the Commission.[5] This order approves the proposal.

II. Background

Since the inception of standardized options trading, the options exchanges have had in place rules imposing limits on the aggregate number of options contracts of the same class that a market participant or market participants acting in concert could hold or exercise.[6] Specifically, these restrictions are known as position and exercise limits. These rules are intended to, among other things, prevent the establishment of large options positions that can be used to manipulate or disrupt the underlying market so as to benefit the holder of an options position.

The AMEX believes, however, that the present rules governing index options position and exercise limits are too restrictive given the increasingly large equity portfolios that institutional investors and member firms manage and control. Specifically, the AMEX suggest that these investors have utilized the futures and over-the-counter ("OTC") derivatives markets in conjunction with the management of their assets because XII position limits are too low. Accordingly, the AMEX has submitted this proposal to increase existing XII position and exercise limits and broaden the hedge exemptions from XII position limits to afford investors, namely institutional investors and member firms, greater opportunity and flexibility to use XII options in the hedging of their large stock portfolios.[7]

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[1] 15 U.S.C. 78s(b)(1) (1982).

[2] 17 CFR 240.19b-4 (1991).

[3] The AMEX currently trades a European-style, XII option contract that is settled based on the closing prices of the component securities at expiration. A European-style options is one that can be exercised only on the expiration date.

[4] See Securities Exchange Act Release No. 30873 (June 30, 1992), 57 FR 30518.

[5] See letter from Michael T. Bickford, Vice President, Kidder, Peabody & Co., to Ivers Riley, AMEX, dated April 23, 1992 ("Bickford Letter").

[6] Position limits impose a ceiling on the number of options contracts relating to an underlying instrument which an investor, or group of investors acting in concert, may own or control. Exercise limits prohibit the exercise by an investor or group of investors acting in concert of more than a specified number of option contracts on a particular underlying security within five consecutive business days.

[7] Under the proposal, the exercise limits for XII options will correspond to the position limits for XII options, such that investors are permitted to exercise, during any five consecutive business days, only the number of XII option contracts set forth as the position limit for XII options. Accordingly, XII

Continued

In addition, the AMEX's proposal to phase-out closing price settlement of XII contracts in favor of settlement based on the opening prices of component securities is responsive to recommendations made by the Commission to dampen volatility associated with "Expiration Fridays." [8] Specifically, in an effort to address stock market volatility experienced on the four Fridays each year when individual stock options, stock index options, stock index futures and options on such futures all expire together, the Commission has encouraged the index options markets to switch to opening or morning settlement.[9] The Commission believes that opening-price settlement of derivative stock index products would allow the markets to apply pre-opening procedures to the significant order imbalances and increased volume experienced on quarterly expirations, thereby contributing to the orderly unwinding of XII positions and related equity positions. Indeed, in 1987, opening-price settlement of certain derivative instruments was implemented by the Chicago Mercantile Exchange ("CME"), the New York Futures Exchange ("NYFE"), and the NYSE.[10] The AMEX, however, continued to settle its XII and Major Market Index ("XMI") option contracts based on the closing prices at expiration.

exercise limits will equal the number of contracts set forth in the XII position limit rule plus any available hedge and/or facilitation exemptions. For example, an exercise limit of 195,000 contracts would be available if the maximum hedge exemption is applicable (45,000 position limit plus 150,000 hedge exemption).

[8] Quarterly expiration are the four expirations, Fridays each year on which all individual stock options, stock index futures, stock index options, and options on stock index futures expire concurrently. Expiration Friday is the one Friday each month, including the four quarterly expirations, on which at least some stock index derivative instruments expire. Specifically, Expiration Fridays are on the third Friday of each month.

[9] See letter from Shirley E. Hollis, Acting Secretary, SEC, to Kenneth R. Leibler, President, AMEX; Walter E. Auch, Chairman, Chicago Board Options Exchange; Gordon S. Macklin, Chairman, National Association of Securities Dealers, Inc.; Robert J. Birnbaum, President, New York Stock Exchange ("NYSE"); James S. Gallagher, President, Pacific Stock Exchange, Inc.; and Nicholas A. Giordano, Chairman, Philadelphia Stock Exchange, Inc., dated June 13, 1988.

[10] See letters from Jean A. Webb, Secretary, CFTC, to Dr. Thomas E. Killcollin, Senior Vice President and Chief Economist, CME, dated February 25, 1987 (CME) and Lynn K. Gilbert, Deputy Secretary, CFTC, to Richard T. Pombonyo, Director, Product Development, NYFE, dated April 24, 1987 (NYFE); and Securities Exchange Act Release Nos. 24276 (March 27, 1987), 52 FR 13894 and 25804 (June 15, 1988), 53 FR 23474 (NYSE).

III. Description of the Proposal

The Exchange proposes to base the settlement value of all expiring European-style XII options on the opening prices of the component securities ("A.M.-settled") instead of the closing prices ("P.M.-settled"), increase the existing position and exercise limits for A.M.-settled XII options contracts, and broaden the existing hedge exemptions from A.M.-settled XII position limits for customers and market professionals.[11] To accomplish the elimination of P.M.-settled XII contracts, the Exchange proposes to terminate the introduction of new P.M.-settled XII contracts.[12] Specifically, the proposed changes include increasing position limits for A.M.-settled XII options from 25,000 to 45,000 contracts on the same side of the market and eliminating the telescoping provision applicable to near-month positions.[13] In addition, the proposal establishes exemptions for certain hedge positions [14] and customer facilitation transactions involving A.M.-settled XII options. A detailed summary of the proposed position limit changes follows.

First, the AMEX proposes to amend AMEX Rule 904C to increase the existing XII position limit from 25,000 to 45,000 contracts and eliminate the telescoping provision of AMEX Rule 904C for A.M.-settled, European-style XII options.[15]

[11] The AMEX proposal also changes the name of the LT-20 Index to "XMI LEAPS."

[12] The increased position and exercise limits and broadened hedge exemptions only apply to A.M.-settled, European-style XII contracts. Thus, outstanding XII contracts with P.M.-settlement will continue to be subject to the lower position and exercise limits until they are phased out. All positions in A.M. and P.M. settled XII contracts will be aggregated. With respect to American-style indexes, equity options or P.M.-settled, European-style indexes, however, no changes are proposed for position limits or existing position limit hedge exemptions.

[13] The telescoping provision in AMEX Rule 904C limits XII options positions to 15,000 contracts on the same side of the market in the near-term expiration month.

[14] Under existing rules, the hedge exemption program allows public customers to apply for a "hedge exemption" from established position limits for broad-based index options if those customers hold pre-approved portfolios of long positions in common stocks. The maximum size of an exempted position, however, cannot exceed the unhedged value of the qualified stock portfolio, and no exempted positions can exceed 75,000 contracts, regardless of the size of the stock portfolio. These rules would continue to apply to any broad-based index option traded on the AMEX except for A.M.-settled XII contracts. See Securities Exchange Act Release No. 25938 (July 22, 1988), 53 FR 28738 and AMEX Information Circular #88-105 (August 12, 1988) ("Existing Hedge Exemption").

[15] See *supra* note 13.

Second, the proposal would authorize the AMEX's Compliance Division to grant an increased array of exemptions from the basic position and exercise limits of Rule 904C for positions in A.M.-settled XII options.[16] In particular, the AMEX proposal lists seven (the last three of which are new) hedging transactions and positions involving A.M.-settled XII options and a qualified portfolio which, upon application by public customers [17] and approval by the Exchange, will not be counted against position limits up to a limit of 150,000 contracts.[18] These positions and transactions include:

(1) Long put(s) used to hedge the holdings of a qualified portfolio; [19]

(2) Long call(s) used to hedge a short position in a qualified portfolio;

(3) Short call(s) used to hedge the holdings of a qualified portfolio (a "covered write position");

(4) Short put(s) use to hedge a short position in a qualified portfolio;

(5) A covered write position accompanied by long put(s), where the short call(s) expire with the long put(s), and the strike price of the short call(s) equals or exceeds the strike price of the long put(s) (a "hedgewrap");

(6) A long put position coupled with a short put position overlying the same broad-based index and having an equivalent underlying aggregate index value, where the short put(s) expires with the long put(s), and the strike price of the long put(s) equals or exceeds the strike price of the short put(s), which total position is used to hedge the holdings of a

[16] The AMEX believes that the seven listed options positions generally are taken by market participants to reduce the risks associated with certain equity market positions through the establishment of off-setting positions to provide minimal speculative opportunities.

[17] See Commentary .02 to AMEX Rule 950.

[18] This proposal would permit the AMEX to grant hedge exemptions to public customers for positions in A.M.-settled, European-style XII contracts to the extent that the underlying value of the option does not exceed the unhedged value of the qualified portfolio. The unhedged value would be determined as follows: (1) The values of the net long or short positions for each of the stocks or their equivalent of the qualified portfolio are totalled; and (2) the value of any opposite side of the market calls and puts in XII contracts are subtracted from the total. As previously stated, the exemption is limited to 150,000 same side of the market contracts. For example, assuming a qualified portfolio of $6.365 billion and an index level of 430 for the XII, the 45,000 XII position limit provides coverage of up to $1.935 billion and the hedge exemption of 150,000 XII contracts allows additional XII positions of up to $6.450 billion.

[19] The AMEX defines a qualified portfolio as follows: The stock portfolio or its equivalent is composed of net long (short) positions in common stocks from at least four different industry groups and contains at least twenty stocks, none of which accounts for more than 15% of the value of the portfolio ("qualified portfolio"). To remain qualified, a portfolio must at all times meet these standards notwithstanding trading activity in the stocks or their equivalents. See Existing Hedge Exemption, *supra* note 14.

qualified portfolio (a "debit put spread position"); and

(7) A covered write position accompanied by a debit put spread position, where the short call(s) expires with the puts and the strike price of the short call(s) equals or exceeds the strike price of the long put(s).

As noted above, however, in no event may positions exempt under the proposed hedge exemption exceed 150,000 A.M.-settled XII contracts on the same side of the market. Before public customers may established "exempted positions," however, they must receive approval for the hedge exemption from the AMEX's Compliance Division. In addition, under the proposal, Exchange approval for the position limit hedge exemptions may be granted on the basis of oral representations. If approval is based on oral representations, the customer shall, within no more than five business days, furnish the AMEX's Compliance Division with appropriate documentation and forms substantiating the basis for the exemption.[20]

Third, the proposal would authorize the AMEX to grant a higher position limit exemption for hedged positions applicable to money managers controlling or managing several options accounts.[21] In particular, if the request is approved by the AMEX, a money manager could hold up to 250,000 exempted same-side-of-the-market XII contracts in its aggregate accounts, with any single account under its control limited to 135,000 exempted same-side-of-the-market option contracts. With respect to the aggregation of non-exempted positions, however, all of the aggregated accounts of a money manager will still be subject to the proposed 45,000 XII position limit.

Fourth, the AMEX proposal would enable a member organization to obtain a position limit exemption of up to 100,000 XII contracts on the same-side-of-the-market in order to facilitate the execution of large customer orders.[22] Prior to executing a facilitating trade, however, a member organization must receive approval from two Exchange Floor Governors.[23] The proposal also provides that Exchange approval may be given on the basis of verbal representations, in which event, the member organization shall furnish the AMEX's Compliance Division with appropriate forms and documentation substantiating the basis for the exemption within five business days.[24]

The proposal also establishes several requirements that member organizations must satisfy in order to receive approval of a facilitation trade exemption. No member organization may request a facilitation exemption for customer or member use in index arbitrage. Neither the member's nor the customer's order may be contingent on "all or none" or "fill or kill" instructions and the orders may not be executed until the XII specialist has announced the orders to the entire crowd and crowd members have been given a reasonable time to participate in the trade. In addition, the member must hedge, within five business days after the execution of a facilitation exemption order, all exempt options positions that have not been otherwise liquidated and furnish the Exchange's Compliance Division with documentation describing the resulting hedge position(s).[25] In meeting this requirement, the member organization must liquidate and establish its customer's and its own options and stock positions or their equivalents in an orderly fashion, and in a manner calculated not to cause unreasonable price fluctuations or unwarranted price changes. Finally, once liquidated or reduced, the member organizations may not increase the exempted option positions without approval from the Exchange.

IV. Comment Letter

The Commission received one favorable comment letter on the AMEX's proposal. The commentator described his need for larger XII position limits, pointing out that many of his customers use XII Box Spreads as a money market alternative. In particular, the commentator stated that on occasion "we have been unable to complete a customer's order in XII due to the position limits. Perhaps even more frustrating, on two instances we have had prospects not engage in the strategy due to the limit on investments created by position limits." [26]

V. Discussion

As discussed below, the Commission believes that the AMEX proposal is consistent with Section 6 of the Act, in general, and section 6(b)(5), in particular, in that it should help remove impediments to and perfect the mechanism of a free and open market, promote just and equitable principles of trade and protect investors and the public interest. Moreover, the Commission believes that the AMEX's proposal to switch the XII option to an A.M.-settled option instead of a P.M.-settled option may help ameliorate the price effects associated with expirations of XII options.[27]

A. A.M. Settlement of XII Options

The Commission believes that the AMEX proposal to switch the XII contract from a P.M.-settled contract to an A.M.-settled contract is a reasonable attempt to address and ameliorate the effects on the equity markets that have been associated with, but not necessarily the result of, the expiration of index options.[28] The Commission notes that the AMEX's proposal is consistent with actions taken by other securities and futures exchanges to settle their expiring index options or futures contracts based on the opening prices of component securities.[29] The Commission believes that settling these index products based on opening prices, coupled with the auxiliary opening procedures developed by the NYSE,[30] have significantly improved the ability of the market to alleviate and accommodate large and potentially destabilizing order imbalances associated with the unwinding of index-related positions. Indeed, based on the performance of the stock, options and futures markets over the past several years during expiration Fridays, the Commission continues to believe that "in general, basing the settlement of index products on opening, as opposed to closing, prices on expiration Fridays helps alleviate the stock market

[20] See Information Circular from Howard Baker, Senior Vice President, AMEX, to Members, Member Organizations and Registered Options Principals regarding Institutional Index Options—Introduction of Opening-Settled Contracts and Expansion of Position Limits ("Institutional Index Circular").

[21] A position limit hedge exemption may be granted to an individual or an organization controlling or managing customer accounts in which option positions are held, i.e., a money manager will be determined in accordance with provisions contained in Commentary .08 to AMEX Rule 904.

[22] A facilitation order is an order which is only executed, in whole or in part, in a cross transaction with an order for a public customer of the member organization. See AMEX Rule 950 (e)(iv).

[23] See Institutional Index Circular, *supra* note 20.

[24] *Id.*

[25] The facilitation exemption member organization, if requested, must also provide to the AMEX any information or documents concerning the exempted options and hedge positions and notify the Exchange of any material change in the exempted options position or the hedge.

[26] See *supra* note 5.

[27] The Commission also finds that the name change of the LT-20 Index to XMI LEAPS is within the business judgment of the Exchange and will not confuse investors since the underlying index is the XMI. Therefore, the Commission finds that this Exchange proposal is consistent with the Act.

[28] See Division of Market Regulation, SEC, *The October 1987 Market Break* ("Market Break Study") (February 1988); Division of Market Regulation, SEC, *Market Analysis of October 13 and 16, 1989* ("Mini-Break Report") (December 1990); and Report to the Board of Directors of the NYSE, *Market Volatility and Investor Confidence* ("Blue Ribbon Panel") (June 7, 1990).

[29] See *supra* note 10.

[30] See *infra* note 32 and accompanying text.

volatility once experienced frequently on expiration Fridays." [31]

The Commission has identified several benefits to opening-price settlement for broad-based index options. First, an opening price settlement method can help facilitate the development of contra-side interest to alleviate order imbalance in underlying markets resulting from the unwinding of index-related positions. In contrast to expirations associated with P.M.-settled XII options, firms providing contra-side interest will not necessarily assume overnight or weekend position risks because they will have the rest of the day to liquidate or trade out of their positions. Second, even if the opening price settlement results in a significant change in underlying stock prices, participants in the markets for those stocks will have the remainder of the trading day to adjust to those price movements and to determine whether those movements reflect changes in fundamental values or rather short-term, supply/demand consideration. In addition, settling XII options at the opening will allow corresponding stock positions associated with expiring XII contracts to be subject to the NYSE's auxiliary opening procedures implemented on expiration Fridays. These procedures provide for the orderly entry, dissemination, and matching of orders.[32]

In sum, on the basis of the expirations over the past five years, the Commission believes that opening-price settlement of stock index options and futures is beneficial. Opening-price settlement procedures have operated smoothly and effectively and have contributed to dampening expiration Friday volatility. The Commission believes that moving all XII options to opening settlement will permit the market to benefit from the pre-opening procedures described above when positions in the contract are unwound on expiration Fridays. Accordingly, the Commission finds that switching the settlement of the XII contract from the close to the open at expiration is consistent with the Act and the protection of investors and the public interest.

B. Position and Exercise Limit Increase

In analyzing and reviewing specific position and exercise limits proposed by the options exchanges, the Commission has attempted to balance two competing concerns. First, limits must be sufficiently low to prevent investors from disrupting the underlying cash market. Second, limits must not be established at levels that are so low as to unnecessarily discourage participation in the options market by institutions and other investors with substantial hedging needs or to prevent specialists and market makers from adequately meeting their obligations to maintain fair and orderly markets.

The Commission believes that the proposed position limit of 45,000 A.M.-settled XII contracts on the same side of the market will increase the depth and liquidity of the XII market [33] without significantly increasing concerns regarding intermarket manipulations or disruptions of the markets for the options or the underlying securities. As previously noted, markets that exhibit active and deep trading, as well as broad public ownership, are more difficult to manipulate or disrupt than less active markets with smaller public floats.[34] In this regard, the Institutional Index is a broad-based, capitalization-weighted index consisting of 75 major stocks held in the highest dollar amounts in institutional portfolios that have a market value of more than $100 million in investment funds.[35] Accordingly, given the size and breadth of the Institutional Index, the Commission believes that increasing the XII position limit to 45,000 contracts in tandem with moving the XII to opening price settlement will not increase any manipulative concerns. In addition, the Exchange's surveillance program will continue to be applicable to the trading of XII options and should detect and deter any trading abuses arising from the increased XII position and exercise limits.

1. Hedge Exemption

As detailed above, the proposal lists seven hedging transactions and positions involving A.M.-settled XII contracts and a qualified portfolio which, upon application and approval by the Exchange,[36] will not be counted against position limits for a public customer. These seven listed positions are positions intended to reduce the risks of equity market positions. The proposal, however, limits the number of exempted contracts to 150,000 contracts on the same side of the market. In addition, money managers are provided even greater flexibility, with an upward limit of 250,000 same side of the market contracts for all accounts under management, provided that no singled account can have more than 135,000 contracts on the same side of the market.

The Commission believes that the AMEX proposal is consistent with the Commission's approach to position and exercise limits and adequately balances the benefits derived from increased position and exercise limits against the potential for increased market disruptions and manipulations. Specifically, because any XII options position in excess of the outstanding XII position limit must be fully hedged in conformity with the seven listed hedge positions, market disruption concerns are reduced. Moreover, to the extent that an XII options position is hedged with a qualified stock portfolio, it should be more difficult to profit from an intermarket manipulation because an increase in the value of the XII options position usually will be accompanied by a corresponding decrease in the value of the cash position. Accordingly, the Commission does not believe that the proposed expansion of the hedged position limit exemptions for XII options (in tandem with moving the price settlement of the XII at expiration to the open) will disrupt the options or equity markets or materially increase the

[31] See Securities Exchange Act Release No. 24276 (March 27, 1987), 52 FR 10836.

[32] Specifically, the NYSE's auxiliary opening procedures require all stock orders relating to options or futures contracts that settle based on opening expiration Friday prices to be received by 9 a.m., Eastern Standard Time. The NYSE then disseminates the size of substantial order imbalances (50,000 shares or more) as of 9 a.m. in stocks which are major components of broad-based stock indexes. To facilitate the entry of orders, on expiration Fridays, the NYSE makes its automatic order routing system, known as "SuperDot," available to accept orders at 7:30 a.m. In addition, the NYSE's Opening Automated Report Service ("OARS"), an enhancement to SuperDot, is available at the opening. OARS accepts pre-opening market orders of up to 30,099 shares in size and executes these orders at the market opening. This enhancement to the SuperDot system stores the pre-opening orders, continuously pairs buy and sell orders, and presents order imbalances to specialists up to the time each stock opens for trading. This OARS information, along with the knowledge of the standing limit orders, and the interests represented on the NYSE trading floor and in the Intermarket Trading System ("ITS"), enable specialists to facilitate and report the opening prices and volumes for their respective stocks within moments after 9:30 a.m. See Securities Exchange Act Release No. 25202 (December 21, 1987), 52 FR 48355.

[33] The increase in position limits likely will increase trading activity in XII options and could increase market depth and liquidity by giving institutional investors wider latitude in trading to manage their portfolios.

[34] See Securities Exchange Act Release No. 25738 (May 24, 1988), 53 FR 20201.

[35] Component stocks in the Index are selected based upon stock positions declared in Section 13(f) reports which are filed quarterly with the Commission on behalf of all institutions with portfolios in excess of $100 million in market value.

[36] A customer must receive approval for the hedge exemption from the AMEX's Compliance Division prior to establishing the hedged options position. Although approval may be granted orally, the customer is required to follow-up with appropriate forms and documentation for the exemption within five business days.

possibility of manipulation in the markets for the underlying securities (or options thereon) or the XII options market. In addition, the Commission believes that the expansion of the hedge exemptions to include the hedgewrap and debit put spread positions as qualified hedge positions is consistent with the Act because such hedged positions involve limited systemic risk to the marketplace.[37]

Nevertheless, larger options positions raise the incentive and potential to engage in intermarket manipulations by providing a greater potential gain from the derivative position. The Commission, however, is confident that the existing surveillance capabilities of the Exchange are sufficient to detect and deter trading abuses arising from the increased position and exercise limits associated with the hedge exemption proposal. Accordingly, the Commission believes that the AMEX proposal to increase its position limit exemption for XII hedged positions is warranted in order to add needed flexibility for money managers, institutional investors and other professional traders.

Finally, the Commission believes that the larger hedged XII position limit exemption for money managers (i.e., 250,000 contracts with no more than 135,000 in one account), is reasonable and consistent with the Act because it will provide further flexibility to money managers in managing their accounts.[38] Even though a money manager could control up to 250,000 XII contracts under this proposal, the Commission does not believe this limit will increase the potential for market disruption or manipulation for several reasons. First, even with this higher hedged position limit exemption, no single account could hold pursuant to the exemption, more than 135,000 XII contracts, or 15,000 contracts less than the maximum size of the hedged position limit exemption available for other types of accounts. Second, the exempted options positions must be associated with one of the seven enumerated hedged positions. As noted above, the Commission's concerns about manipulation are reduced to the extent that the positions are fully hedged.

2. Facilitation Exemption

The Commission believes that the "customer facilitation exemption" from XII position and exercise limit rules for member organizations will further enhance the depth and liquidity of the options and underlying cash markets by providing members greater flexibility in executing large XII customer orders.[39] In addition, the Commission believes that the risk of executing large customer orders in XII options will be reduced by distributing such risk among market participants.

The Commission also believes that the Exchange has proposed several safeguards in connection with the facilitation exemption that will serve to minimize any potential market disruption or manipulation concerns. First, the member organization must receive approval from the Exchange prior to executing facilitating trades.[40] In this regard, the Commission believes that permitting the AMEX to grant oral approval of facilitation exemptions will not result in trading abuses because of the follow-up documentation required. Second, a facilitation exemption member must hedge all exempt options positions that have not been previously liquidated within five business days after the execution of the facilitation exemption order, and furnish to the Exchange documentation reflecting the resulting hedged positions. Third, the facilitation exemption member is required to provide the Exchange with any information or document requested concerning the exempted options positions and the positions hedging them.[41] Fourth, a facilitation exemption member is not permitted to use the facilitation exemption for the purpose of engaging in index arbitrage. Thus, the Commission concludes that the member organization customer facilitation exemption from position and exercise limits (in tandem with moving the price settlement of the XII at expiration to the open) is consistent with the Act and will promote fair and orderly markets

VI. Conclusion

The Commission finds that changing the XII to an A.M.-settled contract is consistent with the Act and may ameliorate volatility associated with the expiration of index products. The Commission also finds that the proposed increase in position and exercise limits, together with the broader hedge exemptions, for A.M.-settled XII contracts will allow more effective hedging of large stock portfolios and may increase the depth and liquidity of the stock index options market. At the same time, for the reasons discussed above, the Commission does not believe that an expansion of the hedge exemption for A.M.-settled XII contracts will materially increase the potential for disruption in the underlying cash market or render the XII readily susceptible to manipulation. In addition, the Commission believes that providing AMEX member organizations with XII position and exercise limit exemptions for the purpose of facilitating large customer orders will better serve the needs of the investing public by distributing the risks of large customer transactions to several market participants.

In summary, the Commission believes that the increase in position and exercise limits will benefit market participants by allowing them to take larger positions in the context of an exchange-traded and regulated product without unnecessarily increasing manipulative concerns. In addition, although the hedged position limit exemption is large, the Commission is satisfied that the exempted positions will not present significant manipulation concerns because they are required to be fully hedged. Similarly, the facilitation exemption is limited and positions established pursuant to it must be liquidated or fully hedged within five business days. Further, the Commission believes that these exemptions are appropriate in light of the composition, depth and liquidity of the Institutional Index, making it less susceptible to manipulation.

Nevertheless, as a result of the significant increase in options positions that may result from the new 45,000 position limit, in addition to the elimination of the telescoping provision and the expansion of exemptions from XII position limits, the Commission believes that the AMEX should study the market impact of these changes. Specifically, the Commission expects the AMEX to report on an annual basis for the next three years on the following matters:

[37] In this regard, the effect of the expansion of the hedge exemptions on credit risks likewise should be minimal because the XII contract, like all standardized options under the jurisdiction of the SEC, are issued and cleared by the Options Clearing Corporation ("OCC"). These exemptions from position and exercise limits do not carry over to exempt the position holder from AMEX and OCC margin deposit requirements. Accordingly, hedged positions must be accessible to relevant AMEX members and/or OCC in the event that the positions must be liquidated

[38] Money managers occasionally execute trades and then allocate such trades to specific managed accounts. The proposal for increased position limits will facilitate these money manager operations

[39] Under existing Exchange rules, a market-maker participant in a facilitation transaction may obtain an exemption from position limits. See Commentary .05 to AMEX Rule 904.

[40] *See Supra* text following note 23

[41] The Exchange is authorized to liquidate, as expeditiously as possible consistent with the maintenance of an orderly market, those positions carried by a member that are in excess of applicable position limits. See AMEX Rule 907

(1) The number of market participants that are at or near the 45,000 position limit level;

(2) Any market impact concerns or issues raised by the large options positions, such as frontrunning, mini-manipulation, capping and pegging, and other similar trading abuses;

(3) Any discernible effects on the options and related markets due to the increased position limits and the change in the hedge exemptions (*i.e.*, depth and liquidity);

(4) How often the hedge and facilitation exemptions are utilized;

(5) The frequency and size of the hedge and facilitation exemptions utilized;

(6) The number of position limit violations;

(7) Any disciplinary actions brought as a result of such violations; and

(8) The number of oral exemption requests, the number of requests granted, and the number of times documentation was not timely filed.

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[42] that the proposed rule change (SR-AMEX-92-13) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[43]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92-25707 Filed 10-22-92; 8:45 am]

BILLING CODE 8010-01-M

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Cincinnati Stock Exchange, Inc.

October 19, 1992.

The above named national securities exchange has filed applications with the Securities and Exchange Commission ("Commission") pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder for unlisted trading privileges in the following securities:

ADT Limited
Common Stock, $.10 Par Value (File No. 7-9341)
Blackrock 2001 Term Trust, Inc.
Common Stock, $.01 Par Value (File No. 7-9342)
Computervision Corp.
Common Stock, $.01 Par Value (File No. 7-9343)
Discount Auto Part, Inc.
Common Stock, $.01 Par Value (File No. 7-9344)
Duke Power Co.
7.72% (Cum.) Pfd. Stock A 1992 Ser. $25.00 Par Value (File No. 7-9345)
Ford Motor Corp.
8.40% Ser. A Cum. Pfd. (File No. 7-9346)
Health Equity Properties, Inc.
Common Stock, No Par Value (File No. (File No. 7-9347)
Japan Equity Fund
Common Stock, $.10 Par Value (File No. 7-9348)
Long Island Lighting Co.
$2.35 Ser. Z Pfd. $25.00 Par Value (File No. 7-9349
Louisiana Power & Light Co.
9.68% Cum. Pfd. $25.00 Par Value (File No. 7-9350)
LTC Properties, Inc.
Common Stock, $.01 Par Value (File No. 7-9351)
Pharmaceutical Resources, Inc. (Holding Co.)
Common Stock, $.01 Par Value (File No. 7-9352)
PHP Healthcare Corp.
Common Stock, $.01 Par Value (File No. 7-9353)
Progressive Corp.
9⅝% Sr. Cum. Pfd. Shrs., Ser. A, No Par Value (File No. 7-9354)
Provident Life & Accident Insur. Co. of Amer.
Class A Common Stock, $1.00 Par Value (File No. 7-9355)
Provident Life & Accident Insur. Co. of Amer.
Class B Common Stock, $1.00 Par Value (File No. 9-9356)
Public Service Electric & Gas Co.
7.44% Cum. Pfd. Stock, $100.00 Par Value (File No. 7-9357)
Puget Sound Power & Light Co.
7⅞% Cer. Pfd. Stock (Cum.) $25.00 Par Value (File No. 7-9358)
Salomon, Inc.
Depositary Shares, 1/20 9.50% Pfd. No Par Value (File No. 7-9359)
Sunbeam-Oster Co., Inc.
Common Stock, $.01 Par Value (File No. 7-9360)
Texas Instruments, Inc.
$2.26 D/S (¼ Ser A. PERCS) $25.00 Par Value (File No. 7-9361)
TJX Co.'s, Inc.
Ser. C Cum. Conv. Pfd. Stock, $1.00 Par Value (File No. 7-9362)
United Merchants & Manufacturers, Inc.
10% Cum. Pfd. Ser. 1 $1.00 Par Value (File No. 7-9363)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before November 9, 1992, written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 92-25703 Filed 10-22-92; 8:45 am]

BILLING CODE 8010-01-M

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for hearing; Midwest Stock Exchange, Inc.

October 19, 1992.

The above named national securities exchange has filed applications with the Securities and Exchange Commission ("Commission") pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder for unlisted trading privileges in the following securities:

Brilliance China Automotive Holding Limited
Common Stock, $.01 Par Value (File No. 7-9322)
Magna International, Inc.
Class A Subordinated Voting Shares, No Par Value (File No. 7-9323)
Trans World Airlines, Inc.
$2.25 Cumulative Preferred Stock, $.001 Par Value (File No. 7-9324)
Savannah Foods & Industries, Inc.
Common Stock, $.25 Par Value (File No. 7-9325)
Media Logic, Inc.
Common Stock,, $.01 Par Value (File No. 7-9326)
Van Kampen Merritt Advantage Municipal Income Trust
Common Shares of Beneficial Interest, $.01 Par Value (File No. 7-9327)
Van Kampen Merritt Advantage Pennsylvania Municipal Income Trust
Common Shares of Beneficial Interest, $.01 Par Value (File No. 7-9328)
Gabelli Equity Trust, Inc.
Rights to Subscribe to Additional Shares of Common Stock, No Par Value (File No. 7-9329)
Hovnanian Enterprises, Inc.
Class A Common Stock, Par Value 1¢ (File No. 7-9330)
MGM Grand, Inc.
Rights to Subscribe to Additional Shares of Common Stock, No Par Value (File No. 7-9331)
Property Trust of America
Rights to Subscribe to Additional Shares of Beneficial Interest, No Par Value (File No. 7-9332)
Reading & Bates Corp.
Common Stock, $.05 Par Value (File No. 7-9333)
UDC Homes, Inc.
Common Stock, $.01 Par Value (File No. 7-9334)
Westpac Banking Corp.
American Depositary Receipts (each representing Five Ordinary Shares, A $1.00 Par Value (File No. 7-9335)

[42] 15 U.S.C. 78s(b)(2) (1982).

[43] 17 CFR 200.30-3(a)(12) (1989).

These securities are listed and registered on one or more other national securities exchange and is reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before November 9, 1992, written data, views and arguments concerning the above-referenced application. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the application if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such application is consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary

[FR Doc. 92-25705 Filed 10-22-92; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-31329; File No. SR-OCC-92-20]

Self-Regulatory Organization; The Options Clearing Corporation; Notice of Filing and Order Approving on an Accelerated Basis a Proposed Rule Change to Make Public Directors Eligible to Serve Two Consecutive Terms

October 16, 1992.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] notice is hereby given that on July 29, 1992, The Options Clearing Corporation ("OCC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared primarily by OCC. The Commission is publishing this notice and order to solicit comments from interested persons and to approve on an accelerated basis the proposed rule change.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The purpose of the proposed Bylaws change is to make each Public Director eligible to serve two consecutive two-year terms

[1] 15 U.S.C. 78s(b)(1) (1988)

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, OCC 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. OCC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of the proposed Bylaws change is to provide greater continuity of leadership on OCC's Board of Directors ("Board") by making each Public Director eligible to serve two consecutive terms. Article III, section 6A of OCC's Bylaws currently provides that no person shall be eligible to serve as a Public Director for consecutive two-year terms. That limitation was intended to ensure diversity in the position of Public Director.

Due to the increasing complexity of OCC's business and the options markets, however, a Public Director may find that one term is insufficient preparation for the meaningful administration of OCC's rules, operations, and policies. Accordingly, OCC now believes that each Public Director should be eligible to serve two consecutive two-year terms. Because each Public Director's term in office would be limited to four consecutive years, diversity in that position will still be preserved. Moreover, allowing each Public Director to be reelected for a second term will enhance the continuity of leadership on OCC's Board.

The proposed Bylaw change is consistent with section 17A of the Act because it promotes fair representation on the Board.

B. Self-Regulatory Organization's Statement on Burden on Competition

OCC does not believe that the proposed Bylaws change will impose any burden on competition.

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

The Commission believes the proposed Bylaws change is consistent with the Act and specifically with section 17A(b)(3)(C) of the Act.[2] Section 17A(b)(3)(C) requires that the rules of a clearing agency "assure a fair representation of its shareholders (or members) and participants in the selection of its directors and administration of its affairs." [3] Because the Public Director will be unaffiliated with any national securities exchange, national securities association, or with any broker or dealer in securities, the Public Director's presence on OCC's Board should provide a new and objective perspective to the deliberations and decision making of OCC's Board in the administration of OCC's affairs. Moreover, the addition of a Public Director also should enhance the composition of OCC's Board of Directors by including persons with different expertise and backgrounds. By providing that Public Directors may serve two consecutive terms, the proposed Bylaws change will help ensure that OCC's Public Directors gain the knowledge necessary to participate in the governing of OCC in a meaningful manner. At the same time, however, because each Public Director's term in office will be limited to two consecutive terms, four years in total, diversity will be preserved.

OCC has requested that the Commission find good cause for approving the proposed Bylaws change prior to the thirtieth day after the date of publication of the notice of the filing. The Commission finds good cause for so approving because approval of the proposal on an accelerated basis will allow OCC to consider nominees and to select a Public Director more quickly.

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 filed with the Commission, and all written communications relating to the proposed rule change between the Commission

[2] 15 U.S.C. 78q-1(b)(3)(C) (1988).

[3] *Id.*

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 coying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of OCC. All submissions should refer to the file number SR-OCC-92-20 and should be submitted by November 13, 1992.

V. Conclusion

On the basis of the foregoing, the Commission finds that OCC's proposed rule change is consistent with the Act and in particular with section 17A of the Act.

It is therefore ordered, Pursuant to section 19(b)(2) of the Act,[4] that the proposed rule change (File No. SR-OCC-92-20) be, and hereby is, approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[5]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92-25708 Filed 10-22-92; 8:45 am]

BILLING CODE 8010-01-M

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Pacific Stock Exchange, Inc.

October 19, 1992.

The above named national securities exchange has filed applications with the Securities and Exchange Commission ("Commission") pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder for unlisted trading privileges in the following securities:

Citicorp
Depositary Shares (Each representing Convertible Preferred Stock, Series 15) (File No. 7-9336)

This security is listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before November 9, 1992, written data, views and arguments concerning the above-referenced application. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, 450 5th Street, NW., Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the application if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 92-25704 Filed 10-22-92; 8:45 am]

BILLING CODE 8010-01-M

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Philadelphia Stock Exchange, Inc.

October 19, 1992

The above named national securities exchange has filed applications with the Securities and Exchange Commission ("Commission") pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder for unlisted trading privileges in the following securities:

Savannah Foods & Industries, Inc.
Common Stock, $.25 Par Value (File No. 7-9337)
Van Kampen Merritt Advantage Municipal Income Trust
Common Shares of Beneficial Interest, $1 Par Value (File No. 7-9338)
Van Kampen Merritt Advantage Pennsylvania Municipal Income Trust
Common Shares of Beneficial Interest, $1 Par Value (File No. 7-9339)
Citicorp
$1.217 Dep. Shares "PERCS" (File No. 7-9340)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before November 9, 1992, written data, views and arguments concerning the above-referenced application. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, 450 5th Street, NW., Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the application if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 92-25706 Filed 10-22-92; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC-19033; 812-7827]

The Kent Funds, et al.; Application

October 15, 1992.

AGENCY: Securities and Exchange Commission ("SEC" or "Commission").

ACTION: Notice of Application for Exemption under the Investment Company Act of 1940 (the "Act").

APPLICANTS: Keystone Custodian Funds ("Keystone"), Fiduciary Investment Co., Inc. ("FICO"), The Kent Funds ("Kent"), The Riverfront Funds, Inc. ("Riverfront"), and certain other investment companies for which Keystone or its affiliated persons, as defined by section 2(a)(3) of the Act and which are under common control or controlled by Keystone, act or will act as principal underwriter, investment adviser, manager, or administrator.

RELEVANT ACT SECTIONS: Exemption requested pursuant to section 6(c) from the provisions of sections 18(f), 18(g), and 18(i) of the Act.

SUMMARY OF APPLICATION: Applicants seek an order that would permit the creation, issuance, and sale of multiple classes of shares representing interests in some or all of applicants' existing and future investment portfolios. The classes would be identical in all respects except for class designation, the allocation of certain expenses, certain voting rights, and exchange privileges.

FILING DATE: The application was filed on November 20, 1991, and amended on June 24, 1992 and September 29, 1992. Applicant's counsel has stated that an additional amendment, the substance of which is incorporated herein, will be filed during the notice period.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on November 10, 1992, and should be accompanied by proof of service on applicants, in the form of an affidavit or,

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[4] 15 U.S.C. 78s(b)(2) (1988).

[5] 17 CFR 200.30-3(a)(12) (1991).

for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street NW., Washington, DC 20549. Applicants, Keystone Custodian Funds, Inc., 99 High Street, Boston, MA 02110. Attention: Rosmary D. Van Antwerp.

FOR FURTHER INFORMATION CONTACT: Elaine M. Boggs, Staff Attorney, at (202) 272–3026, or Nancy M. Rappa, Branch Chief, at (202) 272–3030 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicants' Representations

1. Kent is an open-end management investment company registered under the Act. Kent is comprised of three series of shares of beneficial interest representing interests in three investment portfolios: The Kent Money Market Fund, The Kent Michigan Municipal Money Market Fund, and The Kent U.S. Government Securities Money Market Fund. On April 30, 1992, a post effective amendment registering shares of eight additional portfolios became effective.

2. Riverfront is an open-end management investment company registered under the Act. Riverfront is comprised of four investment portfolios: The Riverfront U.S. Government Securities Money Market Fund ("Riverfront Money Market Portfolio"), The Riverfront U.S. Government Limited Maturity Fund, The Riverfront U.S. Government Income Fund, and The Riverfront Income Equity Fund.

3. Keystone is a wholly-owned subsidiary of Keystone Group, Inc., which is a corporation privately owned by members of Keystone's management and Keystone TA Limited Partnership. Keystone is the manager of Kent and the administrator of Riverfront. As manager or administrator, Keystone manages and administers the operations of a fund and supervises the provision of services, other than investment advisory services provided to the fund by others.

4. FICO, a wholly-owned subsidiary of Keystone, is principal underwriter of the shares of Kent. Old Kent Bank and Trust Company, the investment adviser to Kent, is a subsidiary of Old Kent Financial Corporation, a bank holding company registered under the Bank Holding Company Act.

5. The Provident Bank ("Provident"), an Ohio banking corporation, is the investment manager, custodian, and transfer agent of Riverfront. Provident is a subsidiary of Provident Bancorp, Inc., a bank holding company. Ryan Lab, Inc. is investment adviser to the Riverfront U.S. Government Limited Maturity Fund. SunBank Capital Management, N.A. is investment adviser to the Riverfront Income Equity Fund, and Keystone is the investment adviser to the Riverfront U.S. Government Income Fund.

6. Applicants request that relief extend to other investment companies for which Keystone or its affiliated persons, as defined by section 2(a)(3) of the Act, act or will act as principal underwriter, distributor, investment adviser, manager, administrator, or sponsor. Reliance of such funds on the requested order will be subject to the terms and conditions contained herein.

7. Applicants propose to create up to three classes of shares of each portfolio to be designated as Class A, Class B, and Class C shares. From time to time the funds may create additional classes of shares the terms of which may differ from the terms of the Class A, Class B, and Class C shares. However, the differences between the various classes will be limited as described in condition one.

8. Class A share (of all portfolios other than the Money Market portfolios) will be offered with a front-end sales load in connection with a distribution plan adopted pursuant to rule 12b–1 under the Act ("12b–1 Plan") and/or a shareholder services plan ("Shareholder Service Plan") (collectively the 12b–1 Plan and Shareholder Service Plan are the "Plans") for purchase by the public through broker-dealers, financial institutions, and other organizations which have entered into dealer agreements ("Dealer Agreements") with FICO with respect to the distribution of such shares.

9. Class B shares will be offered in connection with a 12b–1 Plan and/or a Shareholder Service Plan for purchase only by or through financial institutions and other organizations for the benefit of agency, custodial, or similar accounts.

10. Class C shares will be offered without a sales load for purchase only by financial institutions and other organizations for the benefit of fiduciary accounts. Applicants may wish to market Class C shares of one or more portfolios of Kent or any other Fund subsequently established for purchase by or through financial institutions and others organizations for the benefit of agency, custodial, or similar accounts. In such event, it is not expected that Class B shares would be marketed for such portfolio.

11. Shares in each portfolio, regardless of class designation, would represent an equal *pro rata* interest in such portfolio and would have identical voting, dividend, liquidation and other rights, preferences, powers, restrictions, limitations, qualifications, designations, terms and conditions, except that:

(a) Each class would have a different designation;

(b) Each class of shares offered in connection with a 12b–1 Plan and/or Shareholder Service Plan would bear the expense of payments ("Service Payments") with respect to such class;

(c) Each class of shares would bear any Class Expenses, as defined;

(d) Only the holders of the shares with a 12b–1 Plan would be entitled to vote on matters pertaining to the 12b–1 Plan;

(e) Each class would have different exchange privileges;

(f) A class may be offered subject to a contingent deferred sales load; and

(g) A class may have different front-end loads and other direct shareholder fees.

12. The provision of support services under either a 12b–1 Plan or a Shareholder Services Plan and distribution assistance under a 12b–1 Plan would augment and not be duplicative of the services that would otherwise have been provided to the funds by FICO, Keystone, the funds' transfer agents, the funds' custodians, and various other sub-accounting and sub-transfer agency agents.

13. The net asset value of all outstanding shares representing interest in each portfolio would be computed on the same days and at the same times. The gross income of the portfolio will be allocated to each class based on the relative net asset values of each class and then divided by the number of outstanding shares of that class. In addition to the expense of Service Payments made pursuant to 12b–1 Plans and/or Shareholder Service Plans for distribution and support services, *pro rata* shares of expenses incurred at the fund and portfolio levels and Class Expenses would be subtracted from the gross income per share of each class of the respective portfolio.

14. Subject to the approval of the board of trustees/directors, certain expenses may be allocated differently if their method of imposition is no longer appropriate. In addition, allocation of a certain expense to a class may be viewed by the Internal Revenue Service or counsel to Kent as resulting in a preferential dividend and thus may be

allocated to the portfolio or fund. Similarly, if a Fund Expense becomes attributable to a portfolio, it will become a portfolio expense. However, any additional Class Expense not specifically identified in the application which is subsequently identified and determined to be properly allocated to one class of shares shall not be so allocated until an order is obtained from the Commission.

15. Because of the Service Payments and Class Expenses that would be borne by a class of shares, the net income of (and dividends payable to) such class are expected to be somewhat lower than the net income of the other classes of shares of the same portfolio that are not making such Service Payments and do not have such Class Expenses and might be somewhat higher or lower than the net income of other classes of shares of the same portfolio. However, dividends paid to each class of shares in a portfolio would be declared and paid on the same days and at the same times, and, except as noted with respect to the Service Payments and Class Expenses, would be determined in the same manner and paid in the same amounts.

16. With regard to funds that do not declare dividends daily, the net asset value per share attributable to each class would differ between dividend declaration dates. This is because the net asset value per share in the fund would be computed on the same days and at the same time and in the same manner, the Service Payments and Class Expenses would be different for each such class. As a result, the daily net income realized by each class would differ and the net asset value per share attributable to each class would vary prior to the declaration of dividends. Such variance would reflect only accrued net income to which the holders of a particular class are entitled, but which has not yet been declared as a dividend.

17. Each class of shares may be exchanged only for shares of the same class in another portfolio except that shares of Class B or C which were originally held in a fiduciary or agency capacity and which are distributed to any underlying beneficial owner, may be exchanged for Class A shares of the same portfolio.

Applicants' Legal Analysis

1. Applicants request an exemptive order pursuant to section 6(c) to the extent that the proposed creation, issuance, and sale of multiple classes of shares representing interests in a portfolio might be deemed:

(a) To result in a "senior security" within the meaning of section 18(g) and to be prohibited by section 18(f)(1) of the Act; or

(b) To violate the equal voting provisions of section 18(i) of the Act.

2. Section 18 of the Act is intended to redress abuses set forth in section 1(b) of the Act, which declares "that the national public interest and the interest of investors are adversely affected * * * when investment companies by excessive borrowing and the issuance of excessive amounts of senior securities increase unduly the speculative character of their junior securities; or [ ] when investment companies operate without adequate assets or reserves."

3. The proposed agreement does not involve borrowings and does not affect the fund's assets or reserves. Nor will the proposed arrangement increase the speculative character of the shares in a portfolio. In addition, all shares of a portfolio will be redeemable at all times. No class of shares in a portfolio will have any preference or priority over any other class in the portfolio in the commonly accepted sense. The proposed arrangements increase the speculative character of the shares in a fund since all shares will participate *pro rata* in all of the funds' income and expenses (with the exception of the proposed Service Payments and Class Expenses).

4. Applicants assert that the creation, issuance, and sale of the proposed classes of shares of the fund's portfolios will better enable the fund to meet the competitive demands of today's financial services industry. Moreover, owners of such shares may be relieved of a portion of the fixed costs normally associated with open-end management investment companies since such costs would, potentially, be spread over a greater number of shares than they would otherwise.

Applicants' Conditions

Applicants agree that any order granting the requested relief shall be subject to the following conditions:

1. Each class of shares of a fund will represent interests in the same portfolio of investments of the fund, and be identical in all respects, except as set forth below. The only differences between the classes of shares of the fund will relate solely to:

(a) The method of payment of certain Class Expenses, which are limited to:

(i) Transfer agent fees directly attributable to a specific class;

(ii) Printing and postage expenses related to preparing and distributing materials such as shareholder reports, prospectuses and proxies to current shareholders;

(iii) SEC and Blue Sky registration fees incurred by a class of shares; and

(iv) The expenses of administrative personnel and services as required to support the shareholders of a specific class;

(v) Litigation or other legal expenses relating solely to one class of shares;

(vi) Accounting fees and expenses relating solely to one class of shares; and

(vii) Trustees'/directors' fees incurred as a result of issues relating to one class of shares;

(b) Service Payments made pursuant to a 12b–1 Plan or Shareholder Services Plan;

(c) The voting rights related to a 12b–1 Plan affecting one class of shares;

(d) Exchange privileges;

(e) Class designations; and

(f) Any other incremental expenses not specifically identified that should be properly allocated to one class which shall be approved by the Commission pursuant to an amended order.

2. The trustees/directors of each fund, as the case may be, including a majority of the independent trustees/directors, will approve the offering of different classes of shares ("Multiple Distribution System"). The minutes of the meetings of the trustees/directors of a fund regarding the deliberations of the trustees/directors with respect to the approvals necessary to implement the Multiple Distribution System will reflect in detail the reasons for the trustees/directors' determination that the proposed Multiple Distribution System is in the best interests of both the fund and its shareholders.

3. On an ongoing basis, the trustees/directors of each fund, pursuant to their fiduciary responsibilities under the Act and otherwise, will monitor the fund for the existence of any material conflicts between the interests of the different classes of shares. The trustees/directors, including a majority of the independent trustees/directors, shall take such action as is reasonably necessary to eliminate any such conflicts that may develop. The manager or administrator and the distributor will be responsible for reporting any potential or existing conflicts to the trustees/directors. If a conflict arises, the manager or administrator and the distributor at their own cost will remedy such conflict up to and including establishing a new registered management investment company.

4. The initial determination of the Class Expenses that will be allocated to a particular class and any subsequent changes thereto will be reviewed and approved by a note of the board of

trustees/directors of a fund, including a majority of trustees/directors who are not interested persons of the fund. Any person authorized to direct the allocation and disposition of monies paid or payable by the fund to meet Class Expenses shall provide to the board of trustees/directors and the trustees/directors shall review, at least quarterly a written report of the amounts so expended and the purposes for which such expenditures were made.

5. Any rule 12b–1 Plan adopted or amended to permit the assessment of a rule 12b–1 fee on any class of shares which has not had its 12b–1 Plan approved by the public shareholders of that class will be submitted to the public shareholders of such class for approval at the next meeting of shareholders after the initial issuance of the class of shares if such approval is still required by the Commission. Such meeting is to be held within 16 months of the date that the registration statement relating to such class first becomes effective or, if applicable, the date that the amendment to the registration statement necessary to offer such class first becomes effective.

6. The Shareholder Services Plans will be adopted and operated in accordance with the procedures set forth in rule 12b–1 (b) through (f) as if the expenditures made thereunder were subject to rule 12b–1, except that shareholders will not enjoy the voting rights specified in rule 12b–1. In evaluating the Shareholder Services Plan, the trustees/directors will specifically consider whether:

(a) The Shareholder Services Plan is in the best interest of the applicable classes and their respective shareholders;

(b) The services to be performed pursuant to the Shareholder Services Plan are required for the operation of the applicable classes;

(c) The service organizations can provide services at least equal, in nature and quality, to those provided by others, including the fund, providing similar services; and

(d) The fees for such services are fair and reasonable in light of the usual and customary charges made by other entities, especially non-affiliated entities, for services of the same nature and quality.

7. Each shareholder services agreement entered into pursuant to the Shareholder Services Plan will contain a representation by the service provider that any compensation payable to the service provider in connection with the investment of its customers' assets in the fund (a) will be disclosed by it to its customers, (b) will be authorized by its customers, and (c) will not result in an excessive fee to the service provider.

8. Each shareholder services agreement entered into pursuant to the Shareholder Services Plan will provide that, in the event an issue pertaining to the Shareholder Services Plan is submitted for shareholder approval, the service provider will vote any shares held for its own account in the same proportion as the vote of those shares held for its customers' accounts.

9. The trustees/directors of each fund will receive quarterly and annual statements concerning distribution and/or shareholder servicing expenditures complying with paragraph (b)(3)(ii) of rule 12b–1, as it may be amended from time to time. In the statements, only expenditures properly attributable to the sale or servicing of a particular class of shares will be used to justify any distribution or servicing fee charged to that class. Expenditures not related to the sale or servicing of a particular class will not be presented to the trustees/directors to justify any fee attributable to that class. The statements, including the allocations upon which they are based, will be subject to the review and approval of the independent trustees/directors in the exercise of their fiduciary duties.

10. Dividends paid by a portfolio with respect to each class of its shares, to the extent any dividends are paid, will be calculated in the same manner, at the same time, on the same day, and will be in amounts based on the relative net asset values of each class, except that Class Expenses, Service Payments, and any other incremental expenses subsequently identified as properly allocable to one class which are permitted by the SEC pursuant to an amended order will be borne exclusively by that class.

11. The methodology and procedures for calculating the net asset value and dividends and distributions of the various classes and the proper allocation of expenses among the various classes has been reviewed by an expert (the "Expert") who has rendered a report to the applicants, which has been provided to the staff of the SEC, that such methodology and procedures are adequate to ensure that such calculations and allocations will be made in an appropriate manner. On an ongoing basis, the Expert, or an appropriate substitute expert, will monitor the manner in which the calculations and allocations are being made and, based upon such review, will render at least annually a report to each fund that the calculations and allocations are being made properly. The reports of the Expert shall be filed as part of the periodic reports filed with the SEC pursuant to sections 30(a) and 30(b)(1) of the Act. The workpapers of the Expert with respect to such reports, following request by a fund (which the fund agrees to provide), will be available for inspection by the SEC staff upon the written request to the fund for such workpapers by a senior member of the Division of Investment Management, limited to the Director, an Associate Director, the Chief Accountant, the Chief Financial Analyst, an Assistant Director, and any Regional Administrators or Associate and Assistant Administrators. The initial report of the expert is a "Special Purpose" report on the "Design of a System" and the ongoing reports will be "Special Purpose" reports on the "Design of a System and Certain Compliance Tests" as defined and described in SAS No. 44 of the AICPA, as it may be amended from time to time, or in similar auditing standards as maybe adopted by the AICPA from time to time.

12. The applicants have adequate facilities in place to ensure implementation of the methodology and procedures for calculating the net asset value and dividends and distributions of the various classes of shares and the proper allocation of expenses among the various classes of shares and this representation will be concurred with by the Expert in the initial report referred to in condition (11) above and will be concurred with by the Expert, or an appropriate substitute expert, on an ongoing basis at least annually in the ongoing reports referred to in condition (11) above. Applicants will take immediate corrective measures if this representation is not concurred in by the expert or appropriate substitute expert.

13. The prospectus of each fund will contain a statement to the effect that a salesperson and any other person entitled to received compensation for selling or servicing fund shares may receive different compensation with respect to one particular class of shares over another in the fund.

14. The distributor will adopt compliance standards, as to when each class of shares may appropriately be sold to particular investors. Applicants will require all persons selling shares of a fund to agree to conform to such standards.

15. The conditions pursuant to which the exemptive order is granted and the duties and responsibilities of the trustees/directors of each fund with respect to the Multiple Distribution System will be set forth in guidelines

which will be furnished to the trustees/directors.

16. Each fund will disclose the respective expenses, performance data, distribution arrangements, services, fees, sales loads, deferred sales loads, and exchange privileges applicable to each class of shares of a portfolio in every prospectus for each portfolio, regardless of whether all classes of shares of a portfolio are offered through each prospectus. Each fund will disclose the respective expenses and performance data applicable to all classes of shares of a portfolio in every shareholder report for such portfolio. To the extent any advertisement or sales literature describes the expenses or performance data applicable to any class of shares of a portfolio, it will also disclose the respective expenses and/or performance data applicable to all classes of shares of such portfolio. The information provided by applicants for publication in any newspaper or similar listing of a portfolio's net asset value and public offering price will present each class of shares of such portfolio separately.

17. The applicants acknowledge that the grant of the exemptive order requested by the application will not imply SEC approval, authorization, or acquiescence in any particular level of payments that a fund may make pursuant to its 12b-1 Plan or Shareholder Services Plans in reliance on the exemptive order.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92-25777 Filed 10-22-92; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

Region III Advisory Council; Public Meeting

The U.S. Small Business Administration Region III Advisory Council, located in the geographical area of Baltimore, will hold public meetings from 9 a.m. to 2 p.m. on Thursday, November 12, 1992 and Thursday, November 19, 1992 at Redwood Towers, 217 East Redwood Street, 12th Floor, Baltimore, Maryland, to discuss such matters as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information, write or call Mr. Charles J. Gaston, District Director, U.S. Small Business Administration, 10 North Calvert Street, 3rd Floor, Baltimore Maryland 21202, (410) 962-2054.

Dated: October 19, 1992.

Dorothy A. Overal,

Acting Assistant Administrator, Office of Advisory Councils.

[FR Doc. 92-25759 Filed 10-22-92; 8:45 am]

BILLING CODE 8025-01-M

Region VIII Advisory Council; Public Meeting

The U.S. Small Business Administration Region VIII Advisory Council, located in the geographical area of Helena, will hold a public meeting at 8:30 a.m. on Tuesday, November 10, 1992 in the Sundance Room of the Sheraton Hotel in Billings, Montana, to discuss such matters as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information, write or call Jo Alice Mospan, District Director, U.S. Small Business Administration, 301 South Park, Drawer 10054, Helena, Montana 59626-0054, (406) 449-5381.

Dated: October 19, 1992.

Dorothy A. Overal,

Acting Assistant Administrator, Office of Advisory Councils.

[FR Doc. 92-25760 Filed 10-22-92; 8:45 am]

BILLING CODE 8025-01-M

Region VIII Advisory Council; Public Meeting

The U.S. Small Business Administration Region VIII Advisory Council, located in the geographical area of Salt Lake City, will hold a public meeting at 9 a.m. on Thursday, November 19, 1992 at the One Utah Center (Utah Power and Light Company) located at 201 South Main, on the 8th Floor, room 863, Salt Lake City, to discuss such matters as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information, write or call Mr. Stan Nakano, District Director, U.S. Small Business Administration, 125 South State Street, Salt Lake City, Utah 84138, (801) 524-5804.

Dated: October 19, 1992.

Dorothy A. Overal,

Acting Assistant Administrator, Office of Advisory Councils.

[FR Doc. 92-25761 Filed 10-22-92; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Application for Approval of Discontinuance or Modification of a Railroad Signal System or Relief From the Requirements of 49 CFR Part 236

Pursuant to 49 CFR part 235 and 49 U.S.C. app. 26, the following railroads have petitioned the Federal Railroad Administration (FRA) seeking approval for the discontinuance or modification of the signal system or relief from the requirements of 49 CFR part 236 as detailed below

Block Signal Application (BS-AP)-No. 3197

Applicant: Burlington Northern Railroad Company, Mr. W.G. Peterson, Chief Engineer—Control Systems, 9401 Indian Creek Parkway, P.O. Box 29136, Overland Park, Kansas 66201-9136.

The Burlington Northern Railroad Company seeks approval of the proposed discontinuance and removal of the traffic control system on the single main track, between Appleton, Minnesota, milepost 578.93 and Ortonville, Minnesota, milepost 602.2, on the Dakota Division, 12th Subdivision, a distance of approximately 23 miles.

The reason given for the proposed changes is that reduced traffic patterns do not justify the high cost to maintain the aging signal system.

BS-AP-No. 3198

Applicant: Consolidated Rail Corporation, Mr. J.F. Noffsinger, Chief Engineer—C&S, 15 North 32nd Street, room 1215, Philadelphia, Pennsylvania 19104-2849.

Consolidated Rail Corporation seeks approval of the proposed modification of the traffic control system, on the single main track, near Keating Summit, Pennsylvania, milepost 110.3, on the Harrisburg Division, Buffalo Line; consisting of the discontinuance and removal of automatic signals 110N and 110S.

The reason given for the proposed changes is to retire facilities no longer required for present train operation, improving train handling in grade.

BS-AP-No. 3199

Applicant: Chicago and NorthWestern Transportation Company, Mr. D.E. Waller, Vice President—Engineering and Materials, One NorthWestern Center, Chicago, Illinois 60606.

The Chicago and NorthWestern Transportation Company seeks approval of the proposed modification of the automatic block signal system, on

the single main track and siding, milepost 86.6, near Eau Claire, Wisconsin, on the Eau Claire Subdivision; consisting of the discontinuance and removal of automatic signal 865 from the siding.

The reason given for the proposed changes is due to the current and future operational characteristics and use of the trackage as a siding, signal 865 is no longer warranted for safe operation.

BS–AP–No. 3200

Applicants:

Consolidated Rail Corporation, Mr. J.F. Noffsinger, Chief Engineer—C&S, 15 North 32nd Street, room 1215, Philadelphia, Pennsylvania 19104–2849.

Grand Trunk Western Railroad Company, Mr. K.J. Bagley, Engineer Communications and Signals, 1333 Brewery Park Boulevard, Detroit, Michigan 48207–2699.

Consolidated Rail Corporation (Conrail) and Grand Trunk Western Railroad Company jointly seek approval of the proposed modification of "Bend" Interlocking, milepost 436.9, South Bend, Indiana, on the Dearborn Division, Chicago Line, of Conrail; consisting of the discontinuance and removal of the following 18 controlled signals: 179, 182, 190, 193, 195, 199, 201, 210, 216, 222, 223, 225, 227, 233, 235, 236, 237, and 238.

The reason given for the proposed changes is to retire facilities no longer required for present operation.

BS–AP–No. 3201

Applicant: Wisconsin Central Limited, Mr. Glenn J. Kerbs, Vice President—Engineering, P.O. Box 5062, Rosemont, Illinois 60017–5062.

The Wisconsin Central Limited (WC) seeks approval of the proposed discontinuance and removal of "Cameron" automatic interlocking, Cameron, Wisconsin, milepost 49.9, on the Rice Lake Subdivision, where the single main track of the WC Rice Lake Subdivision crosses at grade the single main track of the WC Bradley Subdivision; consisting of the removal of the signals and the installation of a manual swing gate.

The reason given for the proposed changes is the reduction in rail traffic through the acquisition of the Rice Lake Subdivision and one train having access to both subdivisions.

BS–AP–No. 3202

Applicant: Chicago and NorthWestern Transportation Company, Mr. D.E. Waller, Vice President—Engineering and Materials, One NorthWestern Center, Chicago, Illinois 60606.

The Chicago and NorthWestern Transportation Company seeks approval of the approval of the proposed modification of the automatic block signal system, on the two main tracks between Deval, milepost 12.0 and Shermer, milepost 17.5, near Desplaines, Illinois, on the Newline Subdivision; consisting of the discontinuance and removal of signals 30, 31, 36, and 37 and the relocation of signals 32 and 33.

The reason given for the proposed changes is the installation of solid-state coded track circuitry associated with pole line elimination.

BS–AP–No. 3203

Applicant: CSX Transportation, Mr. W.J. Scheerer, Chief Engineer—Train Control, 500 Water Street, Jacksonville, Florida 32202.

CSX Transportation seeks approval of the proposed discontinuance and removal of the traffic control system on the single main track between milepost S154.7 and milepost S156.9, near Raleigh, North Carolina, on the Florence Division, Norlina and Aberdeen Subdivisions; consisting of the conversion all power-operated switches and split point derails between milepost 155.0 and milepost 156.9 to hand operation and removal of all associated signals. The proposed changes include redesignating the methods of operation on the trackage as Interlocking Rules and Yard Rule between milepost S154.7 and milepost S155.0, and Yard Limit Rule between milepost S155.0 and milepost S156.9.

The reason given for the proposed changes is to eliminate facilities no longer needed for present day operation.

BS–AP–No. 3204

Applicant:

Consolidated Rail Corporation, Mr. J.F. Noffsinger, Chief Engineer—C&S, 15 North 32nd Street, room 1215, Philadelphia, Pennsylvania 19104–2849.

CSX Transportation, Inc., Mr. W.J. Scheerer, Chief Engineer—Train Control, 500 Water Street, Jacksonville, Florida 32202.

Norfolk Southern Corporation, Mr. J.R. Strickland, Assistant Vice President, Communication and Signal, 99 Spring Street, SW., Atlanta, Georgia 30303.

Consolidated Rail Corporation (Conrail), CSX Transportation, Inc., (CSX) and Norfolk Southern Corporation (NS) jointly seek approval of the proposed modification of "Marion" Interlocking milepost 101.5, on the Indianapolis Division, Indianapolis Line of Conrail; consisting of the reduction of the interlocking limits to include only the crossings at grade where two main tracks of Conrail traverses two main tracks of CSX and two main tracks of NS and the conversion of all remaining power-operated switches outside the interlocking limits to hand operation.

The reason given for the proposed changes is to retire facilities no longer required for present operation.

BS–AP–No. 3205

Applicant: Atchison, Topeka and Santa Fe Railway Company, Mr. W.S. Seery, Director Signal Systems, System Communications and Signal Building, 4515 Kansas Avenue, Kansas City, Kansas 66106.

The Atchison, Topeka and Santa Fe Railway Company seeks approval of the proposed discontinuance and removal of controlled signals 6R and 8L, near milepost 571.5, on the single main track, near Canyon, Texas, on the Southern Region, Plainview Subdivision.

The reason given for the proposed changes is that due to changes in operating requirements the controlled signals are no longer required.

BS–AP–No. 3206

Applicant: Atchison, Topeka and Santa Fe Railway Company, Mr. W.S. Seery, Director Signal Systems, System Communications and Signal Building, 4515 Kansas Avenue, Kansas City, Kansas 66106.

The Atchison, Topeka and Santa Fe Railway Company seeks approval of the proposed discontinuance and removal of control signal 8R, near milepost 1.1, on the single main track, near San Bernardino, California, on the Western Region, San Bernardino Subdivision.

The reason given for the proposed changes is that due to changes in operating requirements the control signal is no longer required.

BS–AP–No. 3207

Applicants: Wheeling & Lake Erie Railway Company, Mr. John Bell, Senior Signal Technician, 100 East 1st Street, Brewster, Ohio 44613.

River Terminal Railway Company, Mr. D.P. Hennessy, General Superintendent, 3100 East 45th Street, Cleveland, Ohio 44127–1094.

The Wheeling & Lake Erie Railway Company (WLE) and River Terminal Railway Company (RT) jointly seek approval of the proposed discontinuance and removal East 49th Street Interlocking, milepost 2.9, near Cleveland, Ohio, where a single track of the WLE crosses at grade a single track of the RT; consisting of the removal of all signals, electric switch locks, and power-operated derails and the

installation of four stop signs at the crossing.

The reason given for the proposed changes is to retire facilities no longer required for present operations.

BS–AP–No. 3208

Applicant: Consolidated Rail Corporation, Mr. J.F. Noffsinger, Chief Engineer—C&S, 15 North 32nd Street, room 1215, Philadelphia, Pennsylvania 19104–2849.

Consolidated Rail Corporation seeks approval of the proposed discontinuance and removal of the automatic block signal system on the single main track, between Valparaiso, Indiana, milepost 420.3 and Tolleston, Indiana, milepost 441.8, on the Dearborn Division, Fort Wayne Line, a distance of approximately 21.5 miles; consisting of the removal of five signals and the operation of the trackage as a secondary track under manual block signal system rules.

The reason given for the proposed changes is to retire facilities no longer required for present operation.

BS–AP–No. 3209

Applicant: Burlington Northern Railroad Company, Mr. W.G. Peterson, Chief Engineer-Control Systems, 9401 Indian Creek Parkway, P.O. Box 29136, Overland Park, Kansas 66201–9136.

The Burlington Northern Railroad Company seeks approval of the proposed discontinuance and removal of the traffic control and automatic block signal system on the single main track, between Stateline, milepost 602.2 and Mobridge, South Dakota, milepost 805.1, on the Dakota Division, 12th Subdivision and between Mobridge, milepost 805.1 and Terry, Montana, milepost 1078.9, on the Montana Division, 27th Subdivision, a distance of approximately 477 miles; including the conversion of control points "Aberdeen" and "Big Stone" to remote controlled interlockings.

The reason given for the proposed changes is that reduced traffic patterns do not justify the high cost to maintain the aging signal system.

Rules Standards & Instructions Application (RS&I–AP)–No. 1084

Applicants:

Consolidated Rail Corporation, Mr. J.F. Noffsinger, Chief Engineer—C&S, 15 North 32nd Street, room 1215, Philadelphia, Pennsylvania 19104–2849.

Housatonic Railroad Company, Inc., Mr. Peter E. Lynch, Vice President—Operations, P.O. Box 1146, Canaan, Connecticut 06018.

Consolidated Rail Corporation (Conrail) and the Housatonic Railroad Company, Inc., (HRRC) jointly seek relief from Section 236.566 of the Rules, Standards, and Instructions (49 CFR part 236) to the extent that the Housatonic Railroad Company be permitted to operate non-equipped locomotives between "CP 150", milepost 150.6 and "CP 147", milepost 147.8, a distance of 2.8 miles, on the Albany Division, Boston Line of Conrail.

The justification for relief is to provide sufficient distance to clear switches at "CP 147" to accommodate the interchange of cars between Conrail and HRRC at Pittsfield, Massachusetts.

Any interested party desiring to protest the granting of an application shall set forth specifically the grounds upon which the protest is made, and contain a concise statement of the interest of the protestant in the proceeding. The original and two copies of the protest shall be filed with the Associate Administrator for Safety, FRA, 400 Seventh Street, SW., Washington, DC 20590 within 45 calendar days of the date of issuance of this notice. Additionally, one copy of the protest shall be furnished to the applicant at the address listed above.

FRA expects to be able to determine these matters without oral hearing. However, if a specific request for an oral hearing is accompanied by a showing that the party is unable to adequately present his or her position by written statements, an application may be set for public hearing.

Issued in Washington, DC, on October 16, 1992.

Phil Olekszyk,

Deputy Associate Administrator for Safety.

[FR Doc. 92–25712 Filed 10–22–92; 8:45 am]

BILLING CODE 4910–06–M

National Highway Traffic Safety Administration

Announcing the First Meeting of the Crashworthiness Subcommittee of the Motor Vehicle Safety Research Advisory Committee

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Meeting announcement.

SUMMARY: This notice announces the first meeting of the Crashworthiness Subcommittee of the Motor Vehicle Safety Research Advisory Committee (MVSRAC). The MVSRAC established this subcommittee at the April 1992 meeting to examine research questions regarding crashworthiness of vehicles under 10,000 pounds GVW. This meeting will seek to identify the specific research activities that the Crashworthiness Subcommittee will initially address.

DATE AND TIME: The meeting is scheduled for November 16, 1992, from 12:30 p.m. to 3:30 p.m.

ADDRESSES: The meeting will be held in room 9230 of the U.S. Department of Transportation Building, which is located at 400 Seventh Street, SW., Washington, DC.

SUPPLEMENTARY INFORMATION: In May 1987, the Motor Vehicle Safety Research Advisory Committee was established. The purpose of the Committee is to provide an independent source of ideas for safety research. The MVSRAC will provide information, advice, and recommendations to NHTSA on matters relating to motor vehicle safety research, and provide a forum for the development, consideration, and communication of motor vehicle safety research, as set forth in the MVSRAC Charter.

This meeting of the Crashworthiness Subcommittee will be primarily an organizational meeting and will include a discussion of ongoing crashworthiness research in biomechanics and dummy development, test data collection techniques, mathematical modeling, and test methodology and analysis.

The meeting is open to the public, and participation by the public will be determined by the Subcommittee Chairman.

A public reference file (Number 88–01—Crashworthiness Subcommittee) has been established to contain the products of the Subcommittee and will be open to the public during the hours of 9:30 a.m. to 4 p.m. at the National Highway Traffic Safety Administration's Technical Reference Division in room 5108 at 400 Seventh Street, SW., Washington, DC 20590, telephone: (202) 366–2768.

FOR FURTHER INFORMATION CONTACT: Rita Gibbons, Office of Research and Development, 400 Seventh Street, SW., room 6206, Washington, DC 20590, telephone: (202) 366–4862.

Issued on: October 19, 1992.

Ralph J. Hitchcock,

Chairman, Crashworthiness Subcommittee, Motor Vehicle Safety Research Advisory Committee.

[FR Doc. 92–25681 Filed 10–22–92; 8:45 am]

BILLING CODE 4910–59–M

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

[AC-60: OTS No. 0534]

First Federal Savings and Loan Association of Rushville, Rushville, IN; Final Action; Approval of Conversion Application

Notice is hereby given that on October 14, 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 Rushville, Rushville, Indiana, 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 Central Regional Office, Office of Thrift Supervision, 111 East Wacker Drive, Suite 800, Chicago, Illinois 60601–4360.

Dated: October 20, 1992.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 92–25843 Filed 10–22–92; 8:45 am]

BILLING CODE 6720-01-M

[AC-61: OTS No. 2579]

Mooresville Savings Bank, FSB, Mooresville, IN; Final Action; Approval of Conversion Application

Notice is hereby given that on October 14, 1992, the Office of the Chief Counsel, Office of Thrift Supervision, acting pursuant to delegated authority, approved the application of Mooresville Savings Bank, FSB, Mooresville, Indiana, 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 Central Regional Office, Office of Thrift Supervision, 111 East Wacker Drive, Suite 800, Chicago, Illinois 60601–4360.

Dated: October 20, 1992.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 92–25844 Filed 10–22–92; 8:45 am]

BILLING CODE 6720-01-M

UNITED STATES INFORMATION AGENCY

Fulbright Teacher Exchange Orientation Programming

AGENCY: United States Information Agency.

ACTION: Notice—request for proposals.

SUMMARY: The United States Information Agency (USIA) seeks applications from cooperating institutions of higher education and non-profit organizations with at least four years of experience in administering international exchange programs to coordinate and implement orientation/workshop programs in the United States for the Fulbright Teacher Exchange Program. These include orientation for both U.S. and foreign exchange educators in August 1993, and workshops for foreign educators in the fall of 1993 and the spring of 1994. The participant group will be divided: one orientation/workshop program will be conducted for participants in the eastern part of the U.S. and one for those in the western part of the U.S. Universities or colleges on the West Coast of the U.S. with schools or colleges of education or programs in international studies, and located within reasonable proximity of international gateway airports, are invited to submit project proposals for the August orientation and three fall and three spring workshops in the western part of the U.S.

Similarly, universities or colleges in the metropolitan Washington, DC area, with schools or colleges of education or programs in international studies, and located within reasonable proximity to Washington, DC's three international gateway airports, are invited to submit proposals for the August orientation and four fall and four spring regional workshops in the eastern part of the country. Other non-profit organizations within the previously described west coast or metropolitan Washington, DC locations, with at least four years of experience in administering international exchange programs and subcontracting and collaborating with colleges or universities, are also welcome to apply to administer either the East Coast or West Coast orientation and workshops.

DATES: Deadline for proposals: All copies must be received at the U.S. Information Agency by 5 p.m. Washington, DC time on December 30, 1992. Faxed documents will not be accepted, nor will documents postmarked on December 30 but received at a later date. It is the responsibility of each grant applicant to ensure that proposals are received by the above deadline. Grants should begin May 15, 1993.

ADDRESSES: The original and 10 copies of the completed application, including required forms, should be submitted by the deadline to: U.S. Information Agency, REF: Fulbright Teacher Exchange Orientation Programming Grant Management Staff, E/X, room 336, 301 4th Street, SW., Washington, DC 20547.

FOR FURTHER INFORMATION CONTACT: Interested United States organizations/institutions should contact Ilo-Mai Harding at the U.S. Information Agency, 301 4th Street, SW., Teacher Exchange Branch, (E/ASX), room 353, Washington, DC 20547; telephone, (202) 619–4556 to request detailed application packets, which include award criteria additional to this announcement, all necessary forms, and guidelines for preparing proposals, including specific budget preparation information.

SUPPLEMENTARY INFORMATION: Pursuant to the Bureau's authorizing legislation, programs must maintain a non-political character and should be balanced and representative of the diversity of American political, social and cultural life.

Overview

The Fulbright Teacher Exchange Program provides opportunities for U.S. educators at the secondary, post-secondary, and in Canada and the United Kingdom, also at the elementary level, to exchange teaching positions with foreign counterpart teachers from 36 countries for one academic year. The success of the current program—and low dropout rate—is largely due to the orientation/workshop programming conducted for more than 450 U.S. and foreign participants. The programming consists of two August workshops, one on the East and one on the West Coast, for outgoing U.S. and incoming foreign exchange teachers; seven fall regional meetings for foreign exchange teachers and their host school/college administrators; and seven spring regional debriefing meetings of foreign exchange teachers. Three of the regional meetings are conducted in the west coast region and four in the east coast region.

Guidlines

The purpose of the August orientation activities described below is to prepare program participants to teach in the educational system of another country. The orientation programming specifically strives.

(a) To provide U.S. educators with the opportunity to meet face to face with their foreign exchange partners to discuss the intricacies of their individual exchange assignments;

(b) to provide participants with an understanding of the educational systems in which they will be teaching; and

(c) to provide teachers with practical guidance on living in their countries of destination, with particular reference to cross-cultural differences. The fall and spring workshop program is intended to assist the foreign exchange teachers to achieve a successful exchange experience in the United States and to enable them to maximize their experience after returning home.

Proposed Budget

All organizations must submit a comprehensive line item budget for which specific details are available in the application packet.

Review Process

USIA will acknowledge receipt of all proposals and will review them for technical eligibility. Proposals will be deemed ineligible if they do not fully adhere to the guidelines established herein and in the application packet. Eligible proposals will be forwarded to panels of USIA officers for advisory review. In addition, all eligible proposals will be reviewed by the budget and contracts offices. Proposals may also be reviewed by the Agency's Office of General Counsel. Funding decisions are at the discretion of the Associate Director for Educational and Cultural Affairs. Final technical authority for grant awards resides with USIA's contracting officer.

Review Criteria

Technically eligible applications will be competitively reviewed according to the following criteria:

1. *Quality of program idea:* Proposals should exhibit originality, substance, and relevance to the USIA mission of promoting mutual understanding between the U.S. and other countries.

12. *Program planning:* Detailed agenda and relevant work plan should demonstrate substantive rigor and logistical capacity. Agenda and plan should adhere to the program overview and guidelines described above.

3. *Ability to achieve program objectives:* Proposals should clearly demonstrate how the institution will meet the program's objectives and plan.

4. *Institutional Capacity:* Proposed personnel and institutional resources should be adequate and appropriate to achieve the program or project's goals.

5. *Institution's Track Record/Ability:* In the proposal, applicant institutions should demonstrate a track record of successful programs, including responsible fiscal management and full compliance with all reporting requirements for past Agency grants as determined by USIA's Office of Contracts (M/KG). The Agency will consider the past performance of prior grantees and the demonstrated potential of new applicants.

6. *Evaluation Plan:* Proposals should provide a plan for program evaluation by the grantee institution.

7. *Cost effectiveness:* The overhead and administrative components of grants, as well as salaries and honoraria, should be kept as low as possible. All other items should be necessary and appropriate.

8. *Cost-sharing:* Proposals should maximize cost-sharing through other private sector support as well as institutional direct funding contributions.

Notice

The terms and conditions published in this RFP are binding and may not be modified by any USIA representative. Explanatory information provided by the Agency that contradicts published language will not be binding. Issuance of the RFP does not constitute an award commitment on the part of the Government. Final awards cannot be made until funds have been fully appropriated by Congress, allocated and committed through internal USIA procedures.

Notification

All applicants will be notified of the results of the review process on or about March 1, 1993. Awarded grants will be subject to periodic reporting and evaluation requirements.

Dated: October 14, 1992.

Jill Emery,

Acting Associate Director, Bureau of Educational and Cultural Affairs.

[FR Doc. 92-25711 Filed 10-22-92; 8:45 am]

BILLING CODE 8230-01-M

Sunshine Act Meetings

Federal Register
Vol. 57, No. 206
Friday, October 23, 1992

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

DEPARTMENT OF AGRICULTURE

RURAL TELEPHONE BANK, USDA

ACTION: Staff Briefing for the Board of Directors.

TIME AND DATE: 3 p.m., Thursday, November 5, 1992.

PLACE: Room 0204-South Building, U.S. Department of Agriculture, 14th and Independence Ave., SW., Washington, DC.

STATUS: Open.

MATTERS TO BE DISCUSSED: The staff's briefing will consist of matters relating to:

(1) the interest rate calculation for RTB loans before October 1, 1991 and after September 30, 1992; (2) registration and voting procedures for the stockholder meeting on November 6, 1992; and (3) the establishment of a cushion of credit program for RTB borrowers. In addition, the Board of Directors may discuss matters related to prepayments.

ACTION: 10th Biennial Stockholder Meeting.

TIME AND DATE: 9 a.m., Friday, November 6, 1992.

PLACE: Jefferson Auditorium, South Building, U.S. Department of Agriculture, 14th and Independence Ave., SW., Washington, DC.

STATUS: Open.

MATTERS TO BE CONSIDERED: The following matters have been placed on the agenda for the stockholders meeting:

1. Call to Order.
2. Swearing in three new Board members.
3. Approval of Minutes of the September 27, 1990, stockholder meeting.
4. Secretary's annual report on loans approved during FY 1992.
5. Treasurer's annual report on FY 1992.
6. Annual committee reports.
   a. Privatization committee.
   b. Prepayment committee.
7. New business.
8. Adjournment.

ACTION: Regular Meeting of the Board of Directors.

TIME AND DATE: Immediately after the stockholders' meeting (approximately 10 a.m.), Friday, November 6, 1992.

PLACE: Jefferson Auditorium, South Building, U.S. Department of Agriculture, 14th and Independence Ave., SW., Washington, DC.

STATUS: Open.

MATTERS TO BE CONSIDERED: The following matters have been placed on the agenda for the Board of Directors meeting:

1. Call to Order.
2. Approval of Minutes of the August 5, 1992, Board meeting.
3. Report on loans approved in the fourth quarter of FY 1992.
4. Review of, if necessary, the Treasurer's annual report on FY 1992 (scheduled in Item 5 of the stockholders' meeting).
5. Report on requests for waiver of prepayment premium.
6. Report of ad hoc committee on privatization of the RTB.
7. Report of ad hoc committee on prepayments.
8. Update on program legislation.
9. Adjournment.

CONTACT PERSON FOR MORE INFORMATION: Matthew P. Link, Assistant Secretary, Rural Telephone Bank (202) 720-0530.

Dated: October 21, 1992.

George E. Pratt,

Acting Governor.

[FR Doc. 92-25947 Filed 10-21-92; 3:38 pm]

BILLING CODE 3410-15-M

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 11:00 a.m., Friday, November 6, 1992.

PLACE: 2033 K St., NW., Washington, DC., 8th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 254-6314.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 92-25876 Filed 10-21-92; 3:29 pm]

BILLING CODE 6351-01-M

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 11:00 a.m., Friday, November 13, 1992.

PLACE: 2033 K St., NW., Washington, DC., 8th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 254-6314.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 92-25877 Filed 10-21-92; 10:29 pm]

BILLING CODE 6351-01-M

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 11:00 a.m., Friday, November 20, 1992.

PLACE: 2033 K St., NW., Washington, DC, 8th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 254-6314.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 92-25878 Filed 10-21-92; 3:29 pm]

BILLING CODE 6351-01-M

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 11:00 a.m., Friday, November 27, 1992.

PLACE: 2033 K St., NW., Washington, DC., 8th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 254-6314.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 92-25879 Filed 10-21-92; 3:29 pm]

BILLING CODE 6351-01-M

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

TIME AND DATE:

10:00 a.m., Tuesday, October 27, 1992
10:00 a.m., Wednesday, October 28, 1992
10:00 a.m., Thursday, October 29, 1992

PLACE: Room 600, 1730 K Street, NW., Washington, DC.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will consider and act upon the following:

1. *Rules of Procedure*, 29 C.F.R. Part 2700. The Commission will consider and act upon its Rules of Procedure taking into consideration the proposed revisions that were published for comment at 55 Fed. Reg.

4853 (February 12, 1990) and the comments received in response.

Any person attending this meeting who requires special accessibility features and/or auxiliary aids, such as sign language interpreters, must inform the Commission in advance of those needs. Subject to 29 C.F.R. § 2706.150(a)(3) and § 2706.160(e).

CONTACT PERSON FOR MORE INFORMATION: Jean Ellen (202) 653-5629/(202) 708-9300 for TDD Relay 1-800-877-8339 for toll free.

Dated: October 20, 1992.

Jean H. Ellen,

Agenda Clerk.

[FR Doc. 92-25951 Filed 10-21-92; 3:54 pm]

BILLING CODE 6735-01-M

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

TIME AND DATE: 10:00 a.m., Wednesday, October 28, 1992.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, N.W., Washington, D.C 20551.

STATUS: Open.

MATTERS TO BE CONSIDERED:

Summary Agenda

Becasue of its routine nature, no substantive discussion of the following items is anticipated. This matter will be voted on without discussion unless a member of the Board requests that the item be moved to the discussion agenda.

1. Proposed 1993 Private Sector Adjustment Factor.

Discussion Agenda

2. Proposed amendments to Regulations K (International Bank Operations) and Y (Bank Holding Companies and Change in Bank Control) to implement the Foreign Bank Supervision Enhancement Act of 1991. (Proposed earlier for public comment; Docket No. R-0754.)

3. Proposals regarding priced services: (A) adoption of factors for evaluating proposals for Federal Reserve withdrawal from a priced service; and (B) adoption of the proposal for the Federal Reserve to withdraw from priced definitive securities safekeeping services. (Proposed earlier for public comment; Docket Nos. R-0767 and R-0768, respectively.)

4. Proposed 1993 fee schedules for priced services.

5. Any items carried forward from a previously announced meeting.

Note: This meeting will re recorded for the benefit of those unable to attend. Cassettes will be available for listening in the Board's Freedom of Information Office, and copies may be ordered for $5 per cassette by calling (202) 452-3684 or by writing to:

Freedom of Information Office, Board of Governors of the Federal Reserve System, Washington, D.C. 20551

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204.

Dated: October 21, 1992.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 92-25856 Filed 10-21-92; 10:35 am]

BILLING CODE 6210-01-M

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

TIME AND DATE: Approximately 12:00 noon, Wednesday, October 28, 1992, following a recess at the conclusion of the open meeting

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, NW., Washington, DC 20551

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204. You may call (202) 452-3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: October 21, 1992.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 92-25857 Filed 10-21-92; 10:35 am]

BILLING CODE 6210-01-M

Corrections

Federal Register
Vol. 57, No. 206
Friday, October 23, 1992

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 675

[Docket No. 920944-2244]

RIN 0648-AE80

Groundfish Fishery of the Bering Sea and Aleutian Islands Area

Correction

In proposed rule document 92-24254 beginning on page 46139 in the issue of Wednesday, October 7, 1992, make the following correction:

§ 675.2 [Corrected]

1. On page 46142, in the second column, under § 675.2, in the second line of the second, third and fourth paragaraphs, "CDO" should read "CDQ".

BILLING CODE 1505-01-D

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Parts 308 and 325

Prompt Corrective Action; Rules of Practice for Hearings

Correction

In rule document 92-23182 beginning on page 44866 in the issue of Tuesday, September 29, 1992, make the following correction:

§ 308.200 [Corrected]

1. On page 44897, in the second column, in § 308.200, in the fourth line, "subpart 9" should read "subpart B".

§ 308.204 [Corrected]

2. On page 44899, in the second column, in § 308.204(c), in the fifth line, "subpart 8" should read "subpart B".

§ 325.104 [Corrected]

3. On page 44901, in the third column, in § 325.104(a)(2), in the second line, "A." should be deleted.

BILLING CODE 1505-01-D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Toxic Substances and Disease Registry

Board of Scientific Counselors, Agency for Toxic Substances and Disease Registry; Meeting

Correction

In notice document 92-24447 appearing on page 46392 in the issue of Thursday, October 8, 1992, in the third column, under **PLACE**, in the first line, "Westlin" should read "Westin" and under **AGENDA**, after the second bullet, "Does Reconstruction" should read "Dose Reconstruction".

BILLING CODE 1505-01-D

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[T.D. 8402]

RIN 1545-AL41

Consolidated Return Regulations; Modification of Rules Relating to the Applicability of Other Provisions of Law in the Context of the Consolidated Return Regulations

Correction

In the correction of rule document 92-6266, which appeared on page 21152 in the issue of Monday, May 18, 1992, make the following correction:

§ 1.1502-13T [Corrected]

On page 9385, in the second column, in § 1.1502-13T(o)(1)(i), in the eighth line, "has" should read "had".

BILLING CODE 1505-01-D

federal register

Friday
October 23, 1992

Part II

Department of the Interior

Bureau of Indian Affairs

Indian Gaming; Citizen Band Potawatomi Indian Tribe of Oklahoma; Notice of Approved Tribal-State Compact

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Indian Gaming; Citizen Band Potawatomi Indian Tribe of Oklahoma

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of approved Tribal-State Compact.

SUMMARY: Pursuant to 25 U.S.C. 2710, of the Indian Gaming Regulatory Act of 1988 (Pub. L. 100–497), the Secretary of the Interior shall publish, in the **Federal Register**, notice of approved Tribal-State Compacts for the purpose of engaging in Class III (casino) gambling on Indian reservations. The Assistant Secretary—Indian Affairs, Department of the Interior, through his delegated authority has approved the Tribal-State Class III Gaming Compact between the Citizen Band Potawatomi Indian Tribe of Oklahoma and the State of Oklahoma, which was enacted on July 6, 1992.

DATES: This action is effective October 23, 1992.

ADDRESSES: Office of Tribal Services, Bureau of Indian Affairs, Department of the Interior, MS/MIB 4603, 1849 "C" Street, NW., Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Hilda Manuel, Interim Staff Director, Indian Gaming Management Staff, Bureau of Indian Affairs, Washington, DC 20240, (202) 219–0994.

Dated: October 19, 1992.

Ron Eden,

Acting Assistant Secretary—Indian Affairs.

[FR Doc. 92–25735 Filed 10–22–92; 8:45 am]

BILLING CODE 4310–02–M

federal register

Friday
October 23, 1992

Part III

Department of the Interior

Bureau of Indian Affairs

Proposed Swinomish Marina at LaConner, WA; Availability of Supplemental Draft Environmental Impact Statement; Notice

DEPARTMENT OF THE INTERIOR

Availability of Supplemental Draft Environmental Impact Statement (SDEIS) for the Proposed Swinomish Marina at LaConner, WA

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice.

SUMMARY: This notice advises the public that the Bureau intends to gather information necessary for the preparation of a Supplemental Draft Environmental Impact Statement (SDEIS) for the proposed Swinomish Marina at La Conner, Washington.

DATES: Comments will be accepted until November 30, 1992.

ADDRESSES: Comments should be sent to: Portland Area Director, Bureau of Indian Affairs (Attention: Dan Thayer), 911 NE., 11th Avenue, Portland, Oregon, 97323.

Copies of the SDEIS are also available for review at the office of the Portland Area Director and at the office of the Puget Sound Agency, Bureau of Indian Affairs, 3006 Colby Avenue, Everett, WA, 98201, and the Planning Office, Swinomish Indian Tribal Community, 950 Moorage Way, LaConner, WA 98257.

FOR FURTHER INFORMATION CONTACT: Dan Thayer, Bureau of Indian Affairs, 911 NE., 11th Avenue, Portland, Oregon, 97232. Telephone (503) 231-6749 or Fax (503) 231-2275.

SUPPLEMENTARY INFORMATION: The Swinomish Indian Tribal Community is proposing to develop a 776-slip saltwater marina and related upland support facilities on the Swinomish Indian Reservation in Skagit County, Washington. The proposed development would be situated along the southwest shore of Padilla Bay at the mouth of the Swinomish Channel, immediately north of State Route 20. The 136-acre proposed marina site is located in the northern half of Section 2, Township 34 North, Range 2 East. The project's waterborne development includes 2,400 feet of floating breakwater, 16,000 linear feet of slip space, and a 43-acre marina basin, boat launch, and boat repair basin. Onshore development includes a marina services building, offices, a motel, restaurant, service station, and related retail shops. Also included in this proposal is the creation of a 39-acre salt marsh, located on a 55-acre parcel of agricultural land approximately one mile south of the proposed marina development site on the western shore of the Swinomish Channel.

A limited number of individual copies of the Supplemental Draft EIS may be obtained by contacting Mr. Thayer.

This notice is published pursuant to § 1501.7 of the Council of Environmental Quality Regulations (40 CFR, parts 1500 through 1508 implementing the procedural requirements of the NEPA of 1969, as amended (42 U.S.C. 4371 et seq.), Department of the Interior Manual (516 DM 1-6) and is in the exercise of authority delegated to the Assistant Secretary—Indian Affairs by 209 DM-8.

Dated: October 16, 1992.

Eddie F. Brown,

Assistant Secretary, Indian Affairs.

[FR Doc. 92-25714 Filed 10-22-92; 8:45 am]

BILLING CODE 4310-02-M

federal register

Friday
October 23, 1992

Part IV

The President

Executive Order 12817—Transfer of Certain Iraqi Government Assets Held by Domestic Banks

Federal Register
Vol. 57, No. 206
Friday, October 23, 1992

Presidential Documents

Title 3—

The President

Executive Order 12817 of October 21, 1992

Transfer of Certain Iraqi Government Assets Held by Domestic Banks

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the International Emergency Economic Powers Act (50 U.S.C. 1701 *et seq.*), the National Emergencies Act (50 U.S.C. 1601 *et seq.*), section 5 of the United Nations Participation Act of 1945, as amended (22 U.S.C. 287c), and section 301 of title 3 of the United States Code, in order to apply in the United States measures adopted in United Nations Security Council Resolution No. 778 of October 2, 1992, and in order to take additional steps with respect to the actions and policies of the Government of Iraq and the national emergency described and declared in Executive Order No. 12722,

I, GEORGE BUSH, President of the United States of America, hereby order:

Section 1. The Secretary of the Treasury is authorized and directed to take all actions necessary to carry out the provisions of United Nations Security Council Resolution No. 778 with respect to blocked funds and other assets described in section 2 of this order, or funds and other assets received from the United Nations in repayment of funds and assets transferred pursuant to section 2 of this order. For this purpose, the Secretary of the Treasury is delegated and authorized to exercise all authorities vested in the President by sections 203 and 205 of the International Emergency Economic Powers Act (50 U.S.C. 1702 and 1704) and section 5 of the United Nations Participation Act (22 U.S.C. 287c).

Sec. 2. Upon a determination by the Secretary of the Treasury that funds or other assets in which the Government of Iraq or its agencies, instrumentalities, or controlled entities have an interest represent the proceeds of the sale of Iraqi petroleum or petroleum products, paid for by or on behalf of the purchaser on or after August 6, 1990, each and every United States financial institution is directed and compelled to transfer such funds or assets held by it or carried on its books to the Federal Reserve Bank of New York, when, to the extent, and in the manner required by the Secretary of the Treasury.

Sec. 3. The Federal Reserve Bank of New York, as fiscal agent of the United States, is authorized, directed, and compelled to receive funds and other assets in which the Government of Iraq or its agencies, instrumentalities, or controlled entities have an interest, and to hold, invest, or transfer such funds and assets, and any earnings thereon, when, to the extent, and in the manner required by the Secretary of the Treasury in order to fulfill the rights and obligations of the United States under United Nations Security Council Resolution No. 778.

Sec. 4. Compliance with this order, or any regulation, instruction, or direction issued under this order, licensing, authorizing, directing, or compelling the transfer of the blocked funds and other assets described in section 2 of this order, or funds and other assets received from the United Nations in repayment of funds and assets transferred pursuant to section 2 of this order, shall, to the extent thereof, be a full acquittance and discharge for all purposes of the obligation of the person making the transfer. No person shall be held liable in any court for or with respect to anything done or omitted in good faith in connection with the administration of, or pursuant to and in reliance on, this order or any regulation, instruction, or direction issued hereunder. The oper-

ation of this order shall have no effect on rights, debts, and claims existing with respect to funds or other assets prior to their transfer to the Federal Reserve Bank of New York.

Sec. 5. For the purposes of this order, the term "United States financial institution" means any United States citizen, permanent resident alien, juridical person organized under the laws of the United States, or any person located in the United States, which is engaged in the business of accepting deposits, making, granting, transferring, holding, or brokering loans or credits, or purchasing or selling foreign exchange or securities, including, but not limited to, depository institutions, banks, saving banks, trust companies, securities brokers and dealers, clearing corporations, investment companies, and U.S. holding companies, U.S. affiliates, or U.S. subsidiaries of the foregoing. This term includes branches, offices, and agencies of foreign financial institutions which are located in the United States.

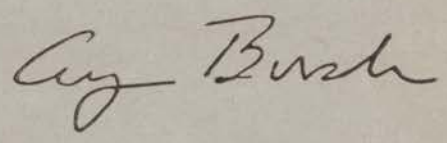
Sec. 6. The Secretary of the Treasury, in consultation with the Secretary of State, is authorized to take such actions, including the issuance of directive licenses, rules, and regulations, as may be necessary to carry out the purposes of this order. The Secretary of the Treasury may redelegate any of these functions to other officers and agencies of the Federal Government. All agencies of the Federal Government are directed to take all appropriate measures within their authority to carry out the provisions of this order.

Sec. 7. Nothing contained in this order shall create any right or benefit, substantive or procedural, enforceable by any party (other than the United States) against the United States, its agencies or instrumentalities, its officers or employees, or any other person.

Sec. 8.

(a) This order is effective immediately.

(b) This order shall be transmitted to the Congress and published in the **Federal Register.**



THE WHITE HOUSE,
October 21, 1992.

[FR Doc. 92-25994
Filed 10-22-92; 10:30 am]
Billing code 3195-01-M

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Friday, October 23, 1992

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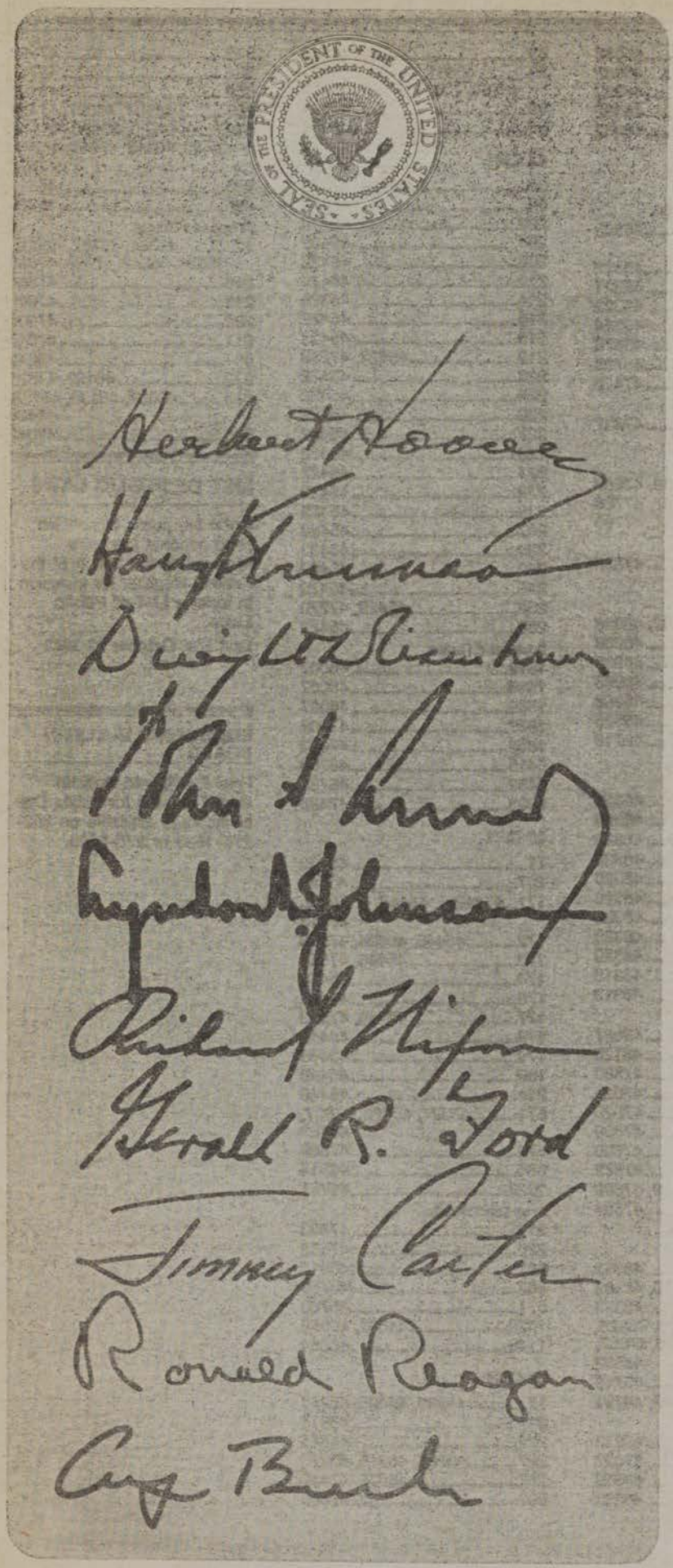

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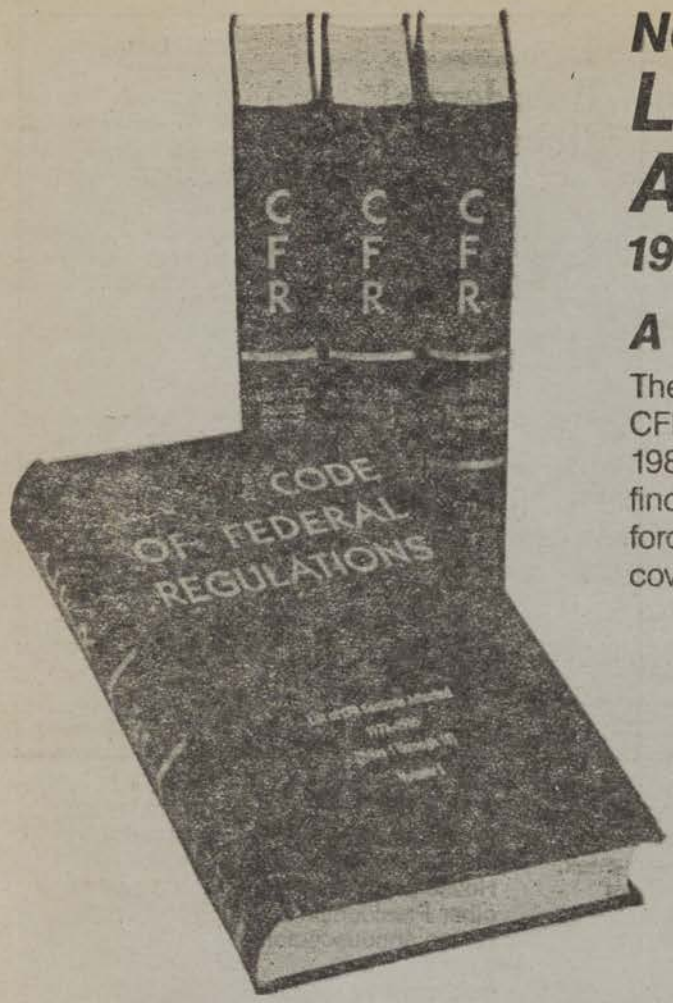

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