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Wednesday
November 18, 1992

Briefings on How To Use the Federal Register
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THE FEDERAL REGISTER

WHAT IT IS AND HOW TO USE IT

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

WHO: The Office of the Federal Register.

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

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

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

ALBUQUERQUE, NM

WHEN: December 8, at 9:00 am
WHERE: University of New Mexico
Continuing Education Bldg., Room I
1634 University Blvd., NE
Albuquerque, NM
RESERVATIONS: Julie Stone
505–768–3532

WASHINGTON, DC

WHEN: November 30, at 9:00 am
WHERE: Office of the Federal Register
Seventh Floor Conference Room
800 North Capitol Street, NW, Washington, DC
RESERVATIONS: 202–523–4534

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Presidential Documents

Title 3—

The President

Executive Order 12821 of November 16, 1992

Improving Mathematics and Science Education in Support of the National Education Goals

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the provisions of the Stevenson-Wydler Technology Innovation Act of 1980, as amended (15 U.S.C. 3701, *et seq.*), and the Federal Property and Administrative Services Act of 1949, ch. 288, 63 Stat. 377 (codified as amended in scattered sections of the United States Code), and in order to ensure that Federal departments, agencies, and laboratories assist in mathematics and science education to meet the National Education Goals, it is hereby ordered as follows:

Section 1. *Assistance in Mathematics and Science Education.* (a) Each executive department and agency (hereinafter referred to as "agency") that: (i) has a scientific mission; (ii) employs significant numbers of scientists, mathematicians, and engineers; or (iii) has a Federal laboratory; as determined by the Committee established by section 2(d) of this order, shall, to the maximum extent permitted by law:

(1) Assist in the mathematics and science education of our Nation's students, teachers, parents, and the public by establishing programs at their agency to provide for training elementary and secondary school teachers to improve their knowledge of mathematics and science. Such programs, to the maximum extent possible, shall involve partnerships with universities, State and local elementary and secondary school authorities, corporations, and community based organizations. These activities shall be coordinated with other relevant Federal teacher training programs (e.g., those administered by the National Science Foundation, the Department of Education, and the Department of Energy). Because of its extensive experience in teacher training programs at its Federal laboratories, the Department of Energy, when requested by other agencies, shall assist in the development of these activities.

(2) Provide brief periods of excused absence for Federal employees to assist in the conduct of mathematics and science education programs, in accordance with guidelines of the Office of Personnel Management.

(b) Develop, within 6 months of the issuance of this order, an implementation plan to fulfill the requirements of this section. The plan shall be consistent with approved agency budget totals. The plan shall be coordinated through the Committee on Education and Human Resources of the Federal Coordinating Council for Science, Engineering, and Technology.

Sec. 2. *Transfer of Education-Related Federal Equipment to Elementary and Secondary Schools.* (a) To the maximum extent permitted by law, all agencies shall give highest preference to elementary and secondary schools in the transfer or donation of education-related Federal equipment. All such transfers to the schools shall be made at the lowest cost permitted by law.

(b) Each agency, to the maximum extent permitted by law, shall:

(1) Identify and transfer excess education-related Federal equipment at that agency that can be transferred to elementary and secondary schools by:

(A) Direct transfer of excess Federal research equipment in accordance with the provisions of subsection 3710(i) of the Stevenson-Wydler Technology Innovation Act of 1980, as amended (15 U.S.C. 3710(i)). The transfer of such

excess equipment shall be reported to the General Services Administration (GSA); or

(B) Reporting such excess equipment to the GSA for donation when declared surplus in accordance with the provisions of section 203(j) of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 484(j));

(2) Allow the elementary and secondary schools sufficient time to select available education-related Federal equipment before it is disposed of elsewhere;

(3) Provide training and technical assistance, where possible, to recipients of education-related Federal equipment to ensure that the equipment will be utilized to its full capability; and

(4) Attempt to provide education-related Federal equipment to those elementary and secondary schools with the greatest need or to the recipients of federally funded mathematics and science projects where the equipment would further enhance the progress of the project.

(c) The GSA shall:

(1) To the maximum extent permitted by law, ensure that elementary and secondary schools are notified of the opportunity to obtain education-related Federal equipment, and, where practical, provide to elementary and secondary schools a current listing of education-related Federal equipment that is available for transfer, and, when requested, provide a current listing of this available equipment to agencies; and

(2) Maintain a record of the education-related Federal equipment provided to elementary and secondary schools pursuant to this order.

(d) There is hereby established a Coordinating Committee on Education-Related Federal Equipment (Committee). The Committee membership shall include, but not be limited to, representatives of the Departments of Defense, Education, Energy, and Health and Human Services, the National Science Foundation, the General Services Administration, and the National Aeronautics and Space Administration.

(1) The Co-chairs of the Committee shall be the Administrator of General Services and the Secretary of Education, or their designees.

(2) The Committee shall assess the availability of appropriate education-related Federal equipment and mechanisms for expeditious notification and transfer of the equipment to elementary and secondary schools and shall resolve issues that may arise in implementing this order.

(3) The Committee shall inform, as necessary, non-Federal groups (e.g., National Governors Association, State Agencies for Surplus Property, etc.) of issues concerning the transfer of education-related Federal equipment.

(4) The Committee may consult with the Committee on Education and Human Resources of the Federal Coordinating Council for Science, Engineering, and Technology concerning activities outlined in this order, particularly those activities listed in section 1 of this order.

Sec. 3. *Definitions.* For the purposes of this order:

(a) "Education-related Federal equipment" means excess or surplus personal computers and related peripheral equipment, research equipment, and education-related equipment that is appropriate for use in mathematics and science curricula in elementary and secondary school education.

(b) "Elementary and secondary schools" means individual public or private educational institutions encompassing kindergarten through twelfth grade, as well as public school districts.

(c) "Federal laboratories" has the meaning set forth in the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a(d)(2)).

(d) "Research equipment" means excess or surplus Federal property appropriate for mathematics and science education activities at the elementary and secondary education levels, as defined by and in accordance with the regulations of the agency that owns the research equipment.

George Bush

THE WHITE HOUSE,
November 16, 1992.

[FR Doc. 92-28201
Filed 11-16-92; 4:31 pm]
Billing code 3195-01-M

Presidential Documents

Executive Order 12822 of November 16, 1992

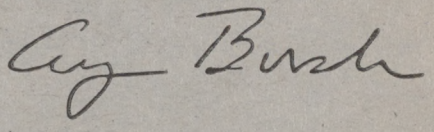
Providing for Payment of Separate Maintenance Allowances to Employees Assigned to Johnston Island

By the authority vested in me as President by the Constitution and the laws of the United States of America, including section 301 of title 3 and section 5942a of title 5, United States Code, it is hereby ordered as follows:

Section 1. Section 8 of Executive Order No. 11609 is amended by adding at the end thereof a new paragraph (4) to read as follows:

"(4) The authority of the President under 5 U.S.C. 5942a to prescribe regulations governing the payment of allowances to employees assigned to duty at Johnston Island for the purposes of maintaining the employees' spouses or dependents, or both, at a location other than Johnston Island."

Sec. 2. This order shall be effective as of January 1, 1992.



THE WHITE HOUSE,
November 16, 1992.

[FR Doc. 92-28202
Filed 11-16-92; 4:32 pm]
Billing code 3195-01-M

Rules and Regulations

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

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 92-NM-96-AD; Amendment 39-8417; AD 92-25-02]

Airworthiness Directives; Fokker Model F28 Mark 0100 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to all Fokker Model F28 Mark 0100 series airplanes equipped with certain main landing gear (MLG) downlock actuator mechanisms, that requires replacement of those actuator mechanisms. This amendment is prompted by reports that a number of MLG's have failed to give a downlock indication on the first gear down selection. The actions specified by this AD are intended to prevent false indications to the crew that the landing gear is not down and locked.

DATES: Effective December 23, 1992.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the **Federal Register** as of December 23, 1992.

ADDRESSES: The service information referenced in this AD may be obtained from Fokker Aircraft USA, Inc., 1199 North Fairfax Street, Alexandria, Virginia 22314. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. Mark Quam, Aerospace Engineer, Standardization Branch, ANM-113, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055-4056; telephone (206) 227-2145; fax (206) 227-1320.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations to include an airworthiness directive (AD) that is applicable to all Model F28 Mark 0100 series airplanes equipped with certain main landing gear (MLG) downlock actuator mechanisms was published in the **Federal Register** on July 10, 1992 (57 FR 30698). That action proposed to require replacement of those actuator mechanisms.

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

One commenter supports the proposed rule.

Two commenters request that the FAA clarify the intent of paragraph (b) of the notice or remove that paragraph from the AD entirely. That paragraph would require that operators, having airplanes with serial number 11333 and subsequent, submit a report to Fokker of any suspect downlock actuators found installed on the airplane. One of these commenters operates airplane serial number 11333, which would be affected by that paragraph and is specified in the effectivity listing of Fokker Service Bulletin SBF100-32-052, dated May 1, 1991. The commenter states that Fokker is aware that the downlock actuator on that airplane has not been modified, as specified in the service bulletin; therefore, a reporting requirement would be redundant.

The other commenter notes that "Dowty Service Bulletin F100-32-45" would not be marked on downlock actuators installed on the airplanes identified in paragraph (b) because the downlock actuators on those airplanes were modified in production and are identified by issue "21" and "Mod No. (c)AC11514" marked on the nameplate. Therefore, the commenter concludes that paragraph (b) of the AD should be removed.

Upon further review of this information, the FAA concurs that paragraph (b) of the notice is unnecessary and has removed paragraph (b) as it appeared in the notice from the final rule.

One commenter notes that the proposed requirements have been accomplished on 39 of its fleet of 40 airplanes. Accordingly, the FAA has changed the economic analysis paragraph, below, to indicate the revised number of affected airplanes of U.S. registry and to reflect the information provided by the commenter.

One commenter requests that a reference to Fokker Service Bulletin SBF100-32-052, dated May 1, 1991, which appears in paragraph (a) of the notice, be removed. The commenter states that the service bulletin describes procedures for removal of the downlock actuator without prior identification of the serial number on the nameplate; however, identification of the serial number can be accomplished without removing the downlock actuator. The FAA concurs and has changed the final rule accordingly.

One commenter requests that the FAA revise the proposal to identify correctly all downlock actuators that require replacement and to identify correctly all downlock actuators that are acceptable replacements. The commenter states that the AD should only apply to downlock actuators with serial numbers listed in Dowty Service Bulletin F100-32-45, dated March 14, 1991. The commenter notes that downlock actuators reworked in accordance with that service bulletin will be identified with either of the following markings on the nameplates: (1) Issue "21" and "Mod (c)AC11514;" or (2) "F100-32-45."

The FAA concurs with the commenter that the AD should only apply to do.nlock actuators with the serial numbers listed in Dowty Service Bulletin F100-32-45. However, the FAA does not concur with the downlock actuator identification recommended by the commenter. Dowty Service Bulletin F100-32-45 specifies that "F100-32-45" must be identified on the nameplate after accomplishment of the rework. Dowty Service Bulletin F100-32-46 specifies that issue "21" and "Mod No. (c)AC11514" must be identified on the nameplate after completing the rework. The FAA has confirmed that all downlock actuators reworked by Dowty will have been modified in accordance with both Dowty Service Bulletins F100-32-45 and F100-32-46 and that these downlock actuators will be identified with both of the following markings on the nameplates: (1) Issue "21" and "Mod

No. (c)AC11514," and (2) "F100–32–45." The FAA has determined that reworking a downlock actuator in accordance with Dowty Service Bulletin F100–32–46 is not required to correct the unsafe condition addressed by this AD action. Therefore, downlock actuators with serial numbers listed in Dowty Service Bulletin F100–32–45 that do not have "F100–32–45" stamped on the nameplate are the only downlock actuators that must be replaced in accordance with this AD. All downlock actuators manufactured subsequent to the affected serial numbers specified in Dowty Service Bulletin F100–32–45 that are identified with the marking, issue "21" and "Mod No. (c)AC11514" are not required to be replaced by this AD, but are considered acceptable replacements. Paragraph (a) of the final rule has been revised accordingly.

A new paragraph [designated as paragraph (b) in the final rule] has been added to the AD to clarify that, as of the effective date of this AD, no affected downlock actuator with a serial number specified in Dowty Service Bulletin F100–32–45, dated March 14, 1991, shall be installed on any airplane unless "F100–32–45" is identified on the nameplate.

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

The FAA estimates that 60 airplanes of U.S. registry will be affected by this AD, that it will take approximately 10 work hours per airplane to accomplish the required actions, and that the average labor rate is $55 per work hour. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $33,000, or $550 per airplane.

The total cost figure discussed above assumes that no operator has yet accomplished the requirements of this AD. However, the FAA has received data indicating that the required actions already have been accomplished on 39 of the 60 affected airplanes. Therefore, the actual total cost impact of this proposed rule will be substantially less than the figure indicated above.

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

92–25–02. Fokker: Amendment 39–8417. Docket 92–NM–96–AD.

Applicability: All Model F28 Mark 0100 series airplanes, certificated in any category.

Compliance: Required as indicated, unless accomplished previously. To prevent false indications to the crew that the landing gear is not down and locked, accomplish the following:

(a) Within 120 days after the effective date of this AD, identify the serial number on the nameplate of the main landing gear downlock actuator, part number 201218001 or 201218002.

(1) If the serial number identified on the nameplate is not one of the following serial numbers, no further action is required by this AD:

Part No. 201218001	Part No. 201218002
CWDD/DRG/1/88 to CWDD/DRG/20/88.	CWDD/DRG/1/88 to CWDD/DRG/19/88.
CWDD/DRG/1/89 to CWDD/DRG/25/89.	CWDD/DRG/1/89 to CWDD/DRG/32/89.
CWDD/DRG/1/90 to CWDD/DRG/42/90.	CWDD/DRG/1/90 to CWDD/DRG/34/90.
CWDD/DRG/1/91 to CWDD/DRG/13/91.	CWDD/DRG/1/91 to CWDD/DRG/10/91.

(2) If the serial number identified on the nameplate is one of the affected serial numbers specified in paragraph (a)(1) of this AD, and if "F100–32–45" is identified on the nameplate, no further action is required by this AD.

(3) If the serial number identified on the nameplate is one of the affected serial numbers specified in paragraph (a)(1) of this AD, and if "F100–32–45" is not identified on the nameplate, prior to further flight, replace the downlock actuator with one that has "F100–32–45" identified on the nameplate, or one that is not one of the affected serial numbers specified in paragraph (a)(1) of this AD, in accordance with Fokker Service Bulletin SBF100–32–052, dated May 1, 1991.

(b) As of the effective date of this AD, no main landing gear downlock actuator, part number 201218001 or 201218002, having a serial number that is specified in paragraph (a)(1) of this AD, shall be installed on any airplane unless "F100–32–045" is identified on the nameplate.

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

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

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

(e) The replacement shall be done in accordance with Fokker Service Bulletin SBF100–32–052, dated May 1, 1991. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR Part 51. Copies may be obtained from Fokker Aircraft USA, Inc., 1199 North Fairfax Street, Alexandria, Virginia 22314. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(f) This amendment becomes effective on December 23, 1992.

Issued in Renton, Washington, on November 9, 1992.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 92-27875 Filed 11-17-92; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 92-ANE-42; Amendment 39-8413; AD 92-24-08]

Airworthiness Directives; Turbomeca Arriel 1 Series Turboshaft Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to Turbomeca Arriel 1 series turboshaft engines. This action supersedes Telegraphic AD T92-13-52, which currently requires a gearbox chip detector inspection prior to further flight, subsequent reinspection at intervals not to exceed 5 hours time in service since the last inspection, and if necessary, removal of the gearbox. This action also revises the gearbox chip detector inspection requirements for certain engines and adds a new requirement to modify the gearbox if not accomplished previously. This amendment is prompted by reports of inflight engine shutdowns and uncontained failures of the power turbine disk and by additional technical review of the reinspection interval for modified gearboxes. The actions specified by this AD are intended to prevent an uncontained engine failure, damage to the aircraft, and emergency autorotation.

DATES: Effective December 3, 1992.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the **Federal Register** as of December 3, 1992.

Comments for inclusion in the Rules Docket must be received on or before January 19, 1993.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), New England Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 92-ANE-42, 12 New England Executive Park, Burlington, Massachusetts 01803-5299.

The service information referenced in this AD may be obtained from Turbomeca Engine Corporation, 2709 Forum Drive, Grand Prairie, Texas 75051. This information may be examined at the FAA, New England Region, Office of the Assistant Chief Counsel, 12 New England Executive Park, Burlington, Massachusetts; or at the Office of the Federal Register, 800 North Capitol Street, NW., Suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mark Rumizen, Project Engineer, Engine Certification Office, Engine and Propeller Directorate, FAA, 12 New England Executive Park, Burlington, Massachusetts 01803-5299, telephone (617) 273-7087; fax (617) 270-2412.

SUPPLEMENTARY INFORMATION: The Direction Generale de L'aviation Civile (DGAC), which is the airworthiness authority of France, notified the FAA that an unsafe condition may exist on Turbomeca Arriel 1B, 1D, 1D1, 1A with TU13, and 1A1 with TU13, turboshaft engines. The DGAC advises that they have received reports of seven inflight engine shutdowns and three uncontained failures of the power turbine disk. The DGAC also advises that these failures were caused by failure of the reduction gearbox intermediate gear.

Turbomeca has issued Service Bulletin (SB) No. 292 72 0157, Update No. 1, dated April 16, 1992, that describes gearbox chip detector inspection for evidence of metal chips that may indicate impending gear failure, and replacement of the reduction gearbox Module No. 5 with a gearbox module incorporating the TU39 modification standard.

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

On June 25, 1992, the FAA issued telegraphic airworthiness directive (TAD) T92-13-52 to require a gearbox chip detector inspection prior to further flight, subsequent reinspection at intervals not to exceed 5 hours time in service since the last inspection, and if necessary, removal of the gearbox. The FAA has determined after review of the results of the investigation and analysis performed by the manufacturer that these failures are due to high cycle fatigue that initiates from vibration induced by gear teeth wear. Failure of the intermediate gear can result in an overspeed condition and possible failure of the power turbine disk. That condition, if not corrected, can result in uncontained engine failure, damage to the aircraft, and emergency autorotation.

Since the issuance of that TAD, the FAA has conducted an additional technical review and concluded that the gearbox reinspection interval can be safely extended from 5 to 8 hours time in service on gearboxes modified to the TU39 standard. The TU39 modification standard includes a thicker web on the intermediate gear. The FAA has also conducted a review of the inspection procedure and has determined that the inspection can be performed by the pilot in accordance with FAR part 43.

This AD also requires modification of gearbox Module No. 5 to the TU39 standard on Turbomeca Arriel Models 1A with TU13 modification standard, 1A1 with TU13 modification standard, and 1B engines, where that modification has not already been accomplished. The TU13 modification standard removes turbine disk overspeed protection. Both 1A and 1A1 engines without modification TU13 are not affected by this AD. Arriel Models 1D and 1D1 engines already incorporate the TU39 modification standard, and therefore do not require further modification, but still require inspections.

Since an unsafe condition has been identified that is likely to exist or develop on other engines of this same type design, this AD supersedes TAD T92-13-52 as to those persons who received the TAD, requires gearbox chip detector reinspection at intervals not to exceed 8 hours time in service on TU39 modified gearboxes, and requires replacement of the reduction gearbox with a reduction gearbox modified to standard TU39, if not already modified to standard TU39. The actions are required to be accomplished in accordance with the service bulletin described previously.

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

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or

arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified under the caption "ADDRESSES." All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 92–ANE–42." The postcard will be date stamped and returned to the commenter.

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

92–24–08 Turbomeca: Amendment 39–8413. Docket No. 92–ANE–42.

Applicability: Turbomeca Arriel Model 1B, 1D, 1D1, 1A with TU13, and 1A1 with TU13, turboshaft engines installed on but not limited to Aerospatiale AS–350B helicopters.

Compliance: Required as indicated, unless accomplished previously.

To prevent an uncontained engine failure, damage to the aircraft, and emergency autorotation, accomplish the following:

(a) For Turbomeca Arriel Models 1A with TU13, 1A1 with TU13, and 1B engines, that do not incorporate the TU39 standard, accomplish the following:

(1) Except for those engines that have been inspected in accordance with Turbomeca Service Bulletin (SB) No. 292 72 0157, Update No. 1, dated April 16, 1992, within the 5 hours time in service (TIS) preceding the effective date of this AD, prior to further flight remove and inspect the reduction gearbox chip detector for evidence of metal chips in accordance with Turbomeca SB No. 292 72 0157, Update No. 1, dated April 16, 1992.

(2) Remove from service reduction gearbox modules that do not meet the return to service criteria described in Turbomeca SB No. 292 72 0157, Update No. 1, dated April 16, 1992, and replace with a serviceable unit.

(3) Thereafter, at intervals not to exceed 5 hours TIS since the last inspection, accomplish the following:

(i) Remove and inspect the reduction gearbox chip detector in accordance with paragraph (a)(1) of this AD.

(ii) Remove from service, if necessary, the reduction gearbox module in accordance with paragraph (a)(2) of this AD, and replace with a serviceable unit.

(4) Within 15 days after the effective date of this AD, replace reduction gearbox Module No. 5 with a reduction gearbox Module No. 5 modified to standard TU39.

(b) For Turbomeca Arriel Models 1A with TU13 and TU39, 1A1 with TU13 and TU39, 1B with TU39, 1D, and 1D1, accomplish the following:

(1) Except for those engines that have been inspected in accordance with Turbomeca SB No. 292 72 0157, Update No. 1, dated April 16, 1992, within the 8 hours TIS preceding the effective date of this AD, prior to further flight remove and inspect the reduction gearbox chip detector for evidence of metal chips in accordance with Turbomeca Service Bulletin No. 292 72 0157, Update No. 1, dated April 16, 1992.

(2) Remove from service reduction gearbox modules that do not meet the return to service criteria described in Turbomeca SB No. 292 72 0157, Update No. 1, dated April 16, 1992, and replace with a serviceable unit.

(3) Thereafter, at intervals not to exceed 8 hours TIS since the last inspection, accomplish the following:

(i) Remove and inspect the reduction gearbox chip detector in accordance with paragraph (b)(1) of this AD.

(ii) Remove from service, if necessary, the reduction gearbox module in accordance with paragraph (b)(2) of this AD, and replace with a serviceable unit.

(c) The chip detector inspections required by paragraphs (a)(1), (a)(3)(i), (b)(1) and (b)(3)(i) of this AD may be performed by the pilot when approved by an FAA Maintenance Inspector. The inspection must be recorded in accordance with FAR 43.9 and 91.417(a)(2)(v) and must be maintained as required by the applicable FAR.

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

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

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

(f) The inspections, removal, and replacement, of gearboxes shall be done in accordance with the following service document:

Document No.	Page	Update	Date
Turbomeca SB No.: 292 72 0157.	3	Original	Mar. 18, 1992.
	1, 2, 4	1	Apr. 16, 1992.

Document No.	Page	Update	Date
Total pages: 4			

This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Turbomeca Engine Corporation, 2709 Forum Drive, Grand Prairie, Texas 75051. Copies may be inspected at the FAA, New England Region, Office of the Assistant Chief Counsel, 12 New England Executive Park, Burlington, Massachusetts; or at the Office of the Federal Register, 800 North Capitol Street NW., suite 700, Washington, DC.

(g) This amendment supersedes TAD T92-13-52.

(h) This amendment becomes effective on December 3, 1992.

Issued in Burlington, Massachusetts, on October 26, 1992.

Jack A. Sain,

Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 92-27872 Filed 11-17-92; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 91-NM-99-AD; Amendment 39-8418; AD 92-25-03]

Airworthiness Directives; Aerospatiale Model SN 601 Corvette Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Aerospatiale Model SN 601 series airplanes, that requires inspection of the skins on the upper and lower passenger door frames to detect cracking and damage, and repair, if necessary. This amendment is prompted by reports of fatigue cracking in the upper and lower passenger door frame skin. The actions specified by this AD are intended to prevent damage to the fuselage passenger door frame skin at the hinge axis.

DATES: Effective December 23, 1992.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of December 23, 1992.

ADDRESSES: The service information referenced in this AD may be obtained from Aerospatiale, 316 Route de Bayonne, 31060 Toulouse, Cedex 03, France. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

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

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations to include an airworthiness directive (AD) that is applicable to certain Aerospatiale Model SN 601 series airplanes was published in the Federal Register on August 26, 1992 (57 FR 38629). That action proposed to require inspection of the skins on the upper and lower passenger door frames to detect cracking and damage, and repair, if necessary.

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were submitted in response to the proposal or the FAA's determination of the cost to the public. The FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

The FAA estimates that 1 airplane of U.S. registry will be affected by this AD, that it will take approximately 4 work hours per airplane to accomplish the required actions, and that the average labor rate is $55 per work hour. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $220. This total cost figure assumes that no operator has yet accomplished the requirements of this AD.

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

92-25-03. Aerospatiale: Amendment 39-8418. Docket 91-NM-99-AD.

Applicability: Model SN 601 Corvette series airplanes on which Modifications 1291 and 1368 have not been incorporated, certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent damage to the fuselage passenger door frame skins at the hinge axis, accomplish the following:

(a) Prior to the accumulation of 8,100 landings, or within 100 landings after the effective date of this AD, whichever occurs later, perform a high frequency eddy current inspection of the skins on the upper and lower frames at the level of the passenger door hinge pins to detect cracks, in accordance with Aerospatiale Corvette Service Bulletin 53-21, dated June 25, 1990.

(1) If no crack is found as a result of the inspection required by paragraph (a) of this AD, repeat the inspection at intervals not to exceed 3,300 landings.

(2) If any crack is found as a result of the inspection required by paragraph (a) of this AD, prior to further flight, accomplish Modification 1291, in accordance with Aerospatiale Corvette Service Bulletin 53-22, dated July 20, 1990. Accomplishment of this modification constitutes terminating action for the inspections required by paragraph (a) of this AD.

(b) Prior to the accumulation of 9,100 landings or within 100 landings after incorporation of Modification 1291, whichever occurs later, perform a low frequency eddy current inspection of the upper door frame, and a high frequency eddy current inspection of the lower door frame, to

detect damage to the fuselage passenger door frame skins at the hinge axis between Frames 11 and 12, in accordance with Aerospatiale Corvette Service Bulletin 53-23, Revision 2, dated November 6, 1991.

(1) If no damage is found as a result of the inspections required by paragraph (b) of this AD, repeat the inspections at intervals not to exceed 3,600 landings.

(2) If any damage is found as a result of the inspections required by paragraph (b) of this AD, prior to further flight, accomplish Modification 1368, in accordance with Aerospatiale Corvette Service Bulletin 53-8, Revision 1, dated August 20, 1990. Accomplishment of this modification constitutes terminating action for the low frequency eddy current inspection of the upper door frame required by paragraph (b) of this AD; however, the high frequency eddy current inspection of the lower door frame required by paragraph (b) of this AD must continue to be performed at intervals not to exceed 3,600 landings.

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

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

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

(e) The inspections and modifications shall be done in accordance with the following Aerospatiale Corvette service bulletins, as applicable, which contain the specified effective pages:

Service bulletin referenced and date	Page No.	Revision level shown on page	Date shown on page
Service Bulletin 53-21, June 25, 1990	1-9	Original	June 25, 1990.
Service Bulletin 53-22, July 20, 1990	1-13	Original	July 20, 1990.
Service Bulletin 53-23, Revision 2	1-5, 12-31	2	November 6, 1991.
November 6, 1991	6-11	1	March 29, 1991
Service Bulletin 53-8, Revision 1, August 20, 1990	1-11	1	August 20, 1990.

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

(f) This amendment becomes effective on December 23, 1992.

Issued in Renton, Washington, on November 10, 1992.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 92-27927 Filed 11-17-92; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 92-NM-108-AD; Amendment 39-8419; AD 92-25-04]

Airworthiness Directives; Boeing Model 737 and Model 757 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Boeing Model 737 and Model 757 series airplanes, that requires modifying the oxygen box assemblies (containing oxygen masks) in lavatories and at certain flight attendant stations. This amendment is prompted by the results of oxygen drop tests, which revealed that a maintenance test stop feature of the oxygen box assemblies may interfere with proper oxygen mask deployment. This condition, if not corrected, may prevent the availability of oxygen to affected passengers and flight attendants during a loss of cabin pressure.

DATES: Effective on December 23, 1992.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of December 23, 1992.

ADDRESSES: The service information referenced in this AD may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. Terrell W. Rees, Aerospace Engineer, Seattle Aircraft Certification Office, ANM-120S; FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055-4056; telephone (206) 227-2785; fax (206) 227-1181.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations to include an airworthiness directive (AD) that is applicable to certain Boeing Model 737 and Model 757 series airplanes was published in the **Federal Register** on June 18, 1992 (57 FR 27197). That action proposed to require modifying the oxygen box assemblies (containing oxygen masks) in lavatories and at certain flight attendant stations.

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

One commenter supports the proposed rule.

Two commenters request that the compliance time for modifying the oxygen box assemblies be revised from the proposed 900 flight hours to "within 900 flight hours or 6 months after the effective date of this AD, whichever occurs later." One commenter requests this extension for purposes of accomplishing the modification at a main base, where trained maintenance personnel who are familiar with this modification are available. The commenter notes that although the proposed modification is fairly simple and can be scheduled on an overnight hold, the proposed compliance time of 900 flight hours would necessitate that some operators special schedule the retrofit to be accomplished at locations where only contract maintenance is available; this would entail additional costs over the amount cited in the economic analysis described in the preamble to the notice. The FAA concurs with the commenter's suggested change. Extending the compliance time to "900 flight hours or 6 months, whichever occurs later" will not

adversely affect safety, and will allow the modification to be performed at a base during regularly scheduled maintenance where special equipment and trained maintenance personnel will be available if necessary. Paragraphs (a) and (b) of the final rule has been revised accordingly.

One commenter recommends that the proposal provide specific modification procedures to accommodate the unique way that each test stop plunger fits within the opening of the oxygen box door. The commenter states that the proposed AD does not allow for such uniqueness. The FAA does not concur that this AD should address each unique configuration. The uniqueness of every assembly makes the inclusion of individualized modification instructions impractical. However, under the provisions of paragraph (c) of the final rule, any operator may use a method other than that specified in the rule by submitting a request for use of that alternative method and data to substantiate that the alternative method will assure proper operation.

One commenter states that the test stop plunger is fabricated from a delicate material and is designed with a delicate attach point. The commenter believes that onboard rework would damage these assemblies. Because of the delicate nature of the test stop plunger, the commenter requests that the oxygen box doors be modified instead of the test stop plunger. Also, this commenter states that reidentification of the test stop plunger, as described in the related service bulletin, would be extremely difficult to accomplish with the plunger still installed in the airplane because of the size and positioning of the test plunger. The FAA does not agree with the commenter's suggestion that the oxygen box door, rather than the test stop plunger, be modified. The doors are of honeycomb construction, and modifying these items may considerably increase the total rework required. Operators may request the use of an alternative method of compliance with the required test stop modification in accordance with paragraph (c) of this AD. The FAA will allow any method of reidentification mutually agreeable to the operator and cognizant FAA Principal Maintenance Inspector; the AD has been revised to specify this point.

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

There are approximately 376 Boeing Model 757 series airplanes of the affected design in the worldwide fleet. The FAA estimates that 228 airplanes of U.S. registry will be affected by this AD, that it will take approximately 1.50 work hours per airplane to accomplish the required actions, and that the average labor rate is $55 per work hour. Based on these figures, the total cost impact of the AD on U.S. operators of Model 757 series airplanes is estimated to be $18,810.

There are approximately 1,030 Boeing Model 737 series airplanes of the affected design in the worldwide fleet. The FAA estimates that 509 airplanes of U.S. registry will be affected by this AD, that it will take approximately 2.75 work hours per airplane to accomplish the required actions, and that the average labor rate is $55 per work hour. Based on these figures, the total cost impact of the proposed AD on U.S. operators of Model 737 series airplanes is estimated to be $76,986.

Based on the figures, described above, the total cost impact of the AD on U.S. operators is estimated to be $95,796. This total cost figure assumes that no affected U.S. operator has accomplished the requirements of this AD.

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

92–25–04. Boeing: Amendment 39–8419. Docket 92–NM–108–AD.

Applicability: Model 737 series airplanes, as listed in Boeing Alert Service Bulletin 737–35A1037, dated February 13, 1992, and Boeing Alert Service Bulletin 737–35A1038, dated March 19, 1992; and Model 757 series airplanes, as listed in Boeing Alert Service Bulletin 757–35A0010, dated February 13, 1992; certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent maintenance test stop plungers from interfering with proper deployment of oxygen masks, accomplish the following:

(a) For Model 737 series airplanes: Within 900 flight hours or 6 months after the effective date of this AD, whichever occurs later, accomplish the requirements of paragraphs (a)(1) and (a)(2) of this AD.

(1) Modify the test stop plungers in the oxygen box assemblies in the lavatories in accordance with Boeing Alert Service Bulletin 737–35A1037, dated February 13, 1992.

(i) As an alternative action, operators may accomplish the modification of the test stop with the oxygen box assembly removed from the airplane.

(ii) In lieu of the method for reidentification of the test stop prescribed in the service bulletin, operators may use an alternative method of reidentification if it is approved by the cognizant FAA Principal Maintenance Inspector (PMI).

(2) Modify the oxygen box assemblies in modular lavatory "A" in accordance with Boeing Alert Service Bulletin 737–35A1038, dated March 19, 1992.

(b) For Model 757 series airplanes: Within 900 flight hours or 6 months after the effective date of this AD, whichever occurs later, modify the test stop plungers in the oxygen box assemblies in the lavatories and at doors 1 and 4 flight attendant seats in accordance with Boeing Alert Service Bulletin 757–35A0010, dated February 13, 1992.

(1) As an alternative action, operators may accomplish the modification of the test stop with the oxygen box assembly removed from the airplane.

(2) In lieu of the method for reidentification of the test stop prescribed in the service bulletin, operators may use an alternative

method of reidentification if it is approved by the cognizant FAA Principal Maintenance Inspector (PMI).

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

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

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

(e) The modifications shall be done in accordance with Boeing Alert Service Bulletin 737-35A1037, dated February 13, 1992; Boeing Alert Service Bulletin 737-35A1038, dated March 19, 1992; or Boeing Alert Service Bulletin 757-35A0010, dated February 13, 1992; as applicable. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(f) This amendment becomes effective on December 23, 1992.

Issued in Renton, Washington, on November 10, 1992.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 92-27926 Filed 11-17-92; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 92-NM-85-AD; Amendment 39-8416; AD 92-25-01]

Airworthiness Directives; Boeing Model 757 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD), applicable to certain Boeing Model 757 series airplanes, that currently requires visual inspections of the internal and external splines of the trailing edge flap drive torque tube coupling assembly for excessive wear, and replacement of the coupling, if necessary. That action was prompted by reports of excessive wear on the aft end of the trailing edge flap drive torque tube coupling. This amendment adds an optional modification that, if installed, constitutes terminating action for the existing inspection requirements. The actions specified by this AD are intended to prevent damage caused by skewed flaps resulting from excessive wear of the splines of the trailing edge flap drive torque tube coupling.

DATES: Effective December 23, 1992.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of December 23, 1992.

ADDRESSES: The service information referenced in this AD may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Ms. Carrie Sumner, Seattle Aircraft Certification Office, Airframe Branch, ANM-120S, FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98055-4056; telephone (206) 227-2778; fax (206) 227-1181.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations by superseding AD 90-08-16, Amendment 39-6574 (55 FR 13755, April 12, 1990), which is applicable to certain Boeing Model 757 series airplanes, was published in the Federal Register on June 4, 1992 (57 FR 23549). The action proposed to add an optional modification that, if installed, would constitute terminating action for the existing inspection requirements.

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

One commenter supports the rule as proposed.

One commenter requests that proposed paragraph (a) be changed to delete reference to Boeing Service Letter 757-SL-27-52, dated January 31, 1990, and Boeing Service Letter 757-SL-27-52-A, dated March 21, 1990. The commenter believes that operators could be confused as to which revision level of the referenced service letter to follow in order to accomplish the inspection. The FAA concurs, in part. Paragraph (a) of the final rule has been changed to eliminate references to the original issue and Revision A of the referenced service letter. However, a note has been added to explain that operators who have previously accomplished the inspection requirements of this AD in accordance with these service letters are in compliance with the inspection requirements of this AD.

One commenter requests that the words "edge flaps" in the phrase "torque tube assemblies edge flaps" be eliminated from proposed paragraph (b). The commenter feels that this terminology is confusing and redundant. The commenter considers that the part number sufficiently describes the torque tube assemblies. The FAA concurs that the requested change would improve the clarity of the rule. The final rule has been changed accordingly.

One commenter questions why a Model 757 series airplane having line number 412 is not included in the applicability statement of the proposal. The commenter requests a clarification of the applicability statement. The FAA notes that the subject airplane was not included in the applicability statement because the airplane is still in production. This airplane will be delivered with the corrected torque tube assembly.

One commenter requests that AD 90-08-16 be amended rather than superseded by adoption of this final rule. The proposed action only adds an optional terminating action provision to the rule. There are no mandatory changes required to the inspection program required by AD 90-08-16. The commenter is concerned about the additional paperwork that will result from a supersedure rather than an amended AD. The FAA does not concur. The FAA's current policy (reference FAA Order 8040.1B) is that, whenever a "substantive change" is made to an existing AD, the AD must be superseded, rather than revised. "Substantive changes" are those made to any instruction or reference that affects the substance of the AD, and includes part numbers, service bulletin and manual references, compliance times, applicability, methods of compliance, corrective action, inspection requirements, and effective dates. In the case of this AD rulemaking action, the changes being made to the existing AD are considered substantive. This superseding AD is assigned a new amendment number and new AD number; the previous amendment is deleted from the system. This procedure facilitates the efforts of the Principal Maintenance Inspectors in tracking AD's and ensuring that the affected operators have incorporated the latest

changes into their maintenance programs.

With regard to paperwork changes required by affected operators, Federal Aviation Regulations (FAR) Section 121.380(a)(2)(v), "Maintenance recording requirements," requires that persons holding an operating certificate and operating under FAR Part 121 must keep records "indicating the current status of applicable airworthiness directives, including the method of compliance." Whether an existing AD is superseded or revised, the new AD is assigned a new AD number: a superseding AD is assigned a new 6-digit AD number; a revising AD retains the original 6-digit AD number, but an "R1" is added to it. In either case, the new AD is identified by its "new" AD number, not by the "old" AD number. In light of this, affected operators updating their maintenance records to indicate the current AD status would have to record a new AD number in all cases, regardless of whether the AD is a superseding or a revising AD. Further, operators are always given credit for work previously performed in accordance with the existing AD by means of the phrase in the compliance section of the AD that states, "Required * * * unless accomplished previously."

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

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

There are approximately 431 Boeing Model 757 series airplanes of the affected design in the worldwide fleet. The FAA estimates that 279 airplanes of U.S. registry will be affected by this proposed AD. The (currently required) inspections necessitate 1.5 work hours to accomplish, at an average labor rate is $55 per work hour. Based on these figures, the total cost impact of the currently required inspections on U.S. operators is $23,018, or $82 per airplane. This total cost figure assumes that no operator has yet accomplished the requirements of this AD.

Should an operator elect to install the optional terminating modification, it would take approximately 9 work hours per airplane to accomplish, at an average labor rate of $55 per work hour. Modification parts would cost approximately $1,486 per airplane. Based on these figures, the total cost associated with installation of the optional terminating modification is estimated to be $1,981 per airplane.

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by removing amendment 39–6574 (55 FR 13755, April 12, 1990), and by adding a new airworthiness directive (AD), amendment 39–8416, to read as follows:

92–25–01. Boeing: Amendment 39–8416. Docket 92–NM–85–AD. Supersedes AD 90–08–16, Amendment 39–6574.

Applicability: Model 757 series airplanes; line numbers 1 through 411, inclusive, and 413 through 432, inclusive; certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent damage caused by skewed flaps resulting from excessive wear of the splines of the trailing edge flap drive torque tube coupling, accomplish the following:

(a) Prior to the accumulation of 2,000 flight cycles, or within the next 200 flight cycles after April 30, 1990 (the effective date of AD 90–08–16), whichever occurs later, and thereafter at intervals not to exceed 2,000 flight cycles, perform an inspection of the torque tube coupling splines, in accordance with Boeing Service Letter 757–SL–27–52–B, dated April 30, 1990.

Note: Operators who have conducted inspections of the torque tube coupling splines prior to the effective date of this AD, in accordance with Boeing Service Letter 757–SL–27–52, dated January 31, 1990, or Boeing Service Letter 757–SL–27–52–A, dated March 21, 1990, are considered to be in compliance with paragraph (a) of this AD.

(1) If the measurement over the pin, as detailed in the service letter, is less than 1.8605 inches but equal to or greater than 1.8533 inches, repeat the inspection prior to the accumulation of 1,000 additional flight cycles.

(2) If the measurement over the pin, as detailed in the service letter, is less than 1.8533 inches, replace the coupling prior to further flight, in accordance with the service letter.

(b) Replacement of the torque tube assemblies with improved torque tube assemblies, part number 251N4281–20 (one on each wing), and installation of a sealant plug in the shafts of the four gearboxes, in accordance with Boeing Service Bulletin 757–27–0099, dated March 12, 1992, constitutes terminating action for the inspections required by paragraph (a) of this AD.

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

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

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

(e) The inspection and replacement shall be done in accordance with Boeing Service Letter 757–SL–27–52–B, dated April 30, 1990. The replacement with improved torque tube assemblies shall be done in accordance with Boeing Service Bulletin 757–27–0099, dated March 12, 1992. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800

North Capitol Street NW., suite 700, Washington, DC.

(f) This amendment becomes effective on December 23, 1992.

Issued in Renton, Washington, on November 9, 1992.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 92-27874 Filed 11-17-92; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 201

[Docket No. 91N-0490]

New Animal Drugs; Veterinary Prescription Drug Legend Revision

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations concerning the veterinary prescription drug legend to reflect the agency's revised statutory basis for regulating veterinary prescription drugs, following enactment of the Generic Animal Drug and Patent Term Restoration Act, and to add appropriate references to the revised statutory authority. FDA is also making nonsubstantive amendments to these regulations to conform them to comparable human drug regulations. In addition, the authority citation for 21 CFR part 201 is being revised to reflect changes in statutory designations made to the Federal Food, Drug, and Cosmetic Act (the act) by the Safe Medical Devices Act of 1990 (the SMDA).

EFFECTIVE DATE: November 18, 1992.

FOR FURTHER INFORMATION CONTACT: Robert C. Livingston, Center for Veterinary Medicine (HFV-100), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301-295-8620.

SUPPLEMENTARY INFORMATION: On November 16, 1988, the President signed into law the Generic Animal Drug and Patent Term Restoration Act (GADPTRA) (Pub. L. 100-670). The primary purpose of Title I of GADPTRA is to establish eligibility for the submission of abbreviated new animal drug applications (ANADA's) for drug products first approved in new animal drug applications (NADA's) after the Drug Amendments of 1962 (Pub. L. 87-781) to the act. GADPTRA also amends section 503 of the act (21 U.S.C. 353) by establishing new paragraph 503(f), codifying the authority to regulate certain veterinary drugs as prescription drugs (drugs that are to be used only by or on the order of a licensed veterinarian) and specifying how such drugs are to be labeled and dispensed. Prior to the enactment of section 503(f) of the act, the agency successfully relied upon section 502(f)(1) of the act as implemented by §§ 201.105 *Veterinary drugs* (21 CFR 201.105) and 201.110 *Retail exemptions for veterinary drugs* (21 CFR 201.110) as the statutory basis for regulating veterinary prescription drugs. This final rule amends § 201.105 to reflect the new statutory provision.

This final rule also makes a nonsubstantive change in § 201.105(a)(1) to make that section consistent with the comparable human drug regulations in § 201.100. In addition, this final rule adds new § 201.105(a)(1)(ii), providing for distribution of veterinary prescription drugs by nonpharmacists as authorized by State law. FDA's longstanding interpretation that "other order" in the phrase "prescription or other order" refers to distribution of prescription veterinary drugs by nonpharmacists, authorized by State law to distribute such drugs, was upheld in *United States* v. *Colahan*, 811 F.2d 287, 294 (6th Cir. 1987).

Because section 503(f)(2)(B) of the act duplicates § 201.110, and in order to make the animal drug regulations more consistent with the human drug regulations, § 201.110 is being removed.

Finally, § 201.122 *Drugs for processing, repacking, or manufacturing* (21 CFR 201.122) is being amended to reflect the passage of section 503(f) of the act.

In this rule, FDA is also revising the authority citation for 21 CFR part 201 to reflect changes in statutory designations made by the SMDA (Pub. L. 101-629), enacted November 28, 1990. Section 19 of the SMDA transferred subpart 3 (Electronic Product Radiation Control) of part F of title III of the Public Health Service Act (the PHS Act) to chapter V of the act, and redesignated sections 354 through 360F of the PHS Act as sections 530 through 542 of the act, respectively.

The agency has determined under 21 CFR 25.24(a)(8) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

In accordance with the principles of the Regulatory Flexibility Act, the agency has considered the potential effects that this rule would have on industry, including small businesses. The rule amends regulations to reflect the revised statutory authority for veterinary prescription drugs and does not impose any new requirements beyond those statutorily required. The statutory revision provides explicit authority under the Federal Food, Drug, and Cosmetic Act for prescription animal drugs similar to that provided for drugs for human use. The effect of the amendment and corresponding amendments to the regulation is to obviate the need to litigate the authority of the agency to require prescription drug labeling on drugs intended for use in animals. For these reasons, the agency concludes that the rule is not a major rule as defined in Executive Order 12291, and has determined that this action does not require either a regulatory impact analysis or a regulatory flexibility analysis.

Prior notice and public procedure are unnecessary for promulgation of this final rule because the revisions affected by it merely implement statutory changes, are nonsubstantive, or reflect a judicial ruling. For the same reasons, good cause exists to make the revisions effective immediately.

List of Subjects in 21 CFR Part 201

Drugs, Labeling, Reporting and recordkeeping requirements.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 201 is amended as follows:

PART 201—LABELING

1. The authority citation for 21 CFR part 201 is revised to read as follows:

Authority: Secs. 201, 301, 501, 502, 503, 505, 506, 507, 508, 510, 512, 530-542, 701, 704, 706 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 331, 351, 352, 353, 355, 356, 357, 358, 360, 360b, 360gg-360ss, 371, 374, 376); secs. 215, 301, 351, 361 of the Public Health Service Act (42 U.S.C. 216, 241, 262, 264).

2. Section 201.105 is amended by revising the introductory text and paragraph (a) to read as follows:

§ 201.105 Veterinary drugs.

A drug subject to the requirements of section 503(f)(1) of the act shall be exempt from section 502(f)(1) of the act if all the following conditions are met:

(a) The drug is:

(1)(i) In the possession of a person (or his agents or employees) regularly and lawfully engaged in the manufacture, transportation, storage, or wholesale distribution of drugs that are to be used only by or on the prescription or other order of a licensed veterinarian; or

(ii) In the possession of a retail, hospital, or clinic pharmacy, or other

person authorized under State law to dispense veterinary prescription drugs, who is regularly and lawfully engaged in dispensing drugs that are to be used only by or on the prescription or other order of a licensed veterinarian; or

(iii) In the possession of a licensed veterinarian for use in the course of his professional practice; and

(2) To be dispensed in accordance with section 503(f) of the act.

* * * * *

§ 201.110 [Removed]

3. Section 201.110 *Retail exemption for veterinary drugs* is removed from subpart D.

4. Section 201.122 is amended by revising the introductory text to read as follows:

§ 201.122 Drugs for processing, repacking, or manufacturing.

A drug in a bulk package, except tablets, capsules, or other dosage unit forms, intended for processing, repacking, or use in the manufacture of another drug shall be exempt from section 502(f)(1) of the act if its label bears the statement "Caution: For manufacturing, processing, or repacking"; and if in substantially all dosage forms in which it may be dispensed it is subject to section 503(b)(1) of the act, the statement "Caution: Federal law prohibits dispensing without prescription", or if in substantially all dosage forms in which it may be dispensed it is subject to section 503(f)(1) of the act, the statement "Caution: Federal law restricts this drug to use by or on the order of a licensed veterinarian". This exemption and the exemption under § 201.120 may be claimed for the same article. However, the exemption shall not apply to a substance intended for a use in manufacture, processing, or repacking which causes the finished article to be a new drug or new animal drug, unless:

* * * * *

Dated: November 10, 1992.

Michael R. Taylor,

Deputy Commissioner for Policy.

[FR Doc. 92–27899 Filed 11–17–92; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF EDUCATION

34 CFR Part 637

RIN: 1840–AB59

Minority Science Improvement Program

AGENCY: Department of Education.

ACTION: Final regulations.

SUMMARY: The Secretary amends the regulations governing the Minority Science Improvement Program. These final regulations are needed to implement recently enacted changes made by the Higher Education Amendments of 1992. The amendments emphasize projects that assist minority women.

EFFECTIVE DATE: These regulations take effect either 45 days after publication in the **Federal Register** or later if the Congress takes certain adjournments. If you want to know the effective date of these regulations, call or write the Department of Education contact person. A document announcing the effective date will be published in the **Federal Register.**

FOR FURTHER INFORMATION CONTACT: Dr. Argelia Velez-Rodriguez, U.S. Department of Education, 400 Maryland Avenue SW., Room 3022, ROB–3, Washington, DC 20202–5251. Telephone: (202) 708–4662. Individuals who are hearing impaired may call the Federal Dual Party Relay Service at 1–800–877–8339 (in the Washington, DC 202 area code, telephone 708–9300) between 8 a.m. and 7 p.m., Eastern time.

SUPPLEMENTARY INFORMATION: These regulations implement the Higher Education Amendments of 1992 (Pub. L. 102–325), enacted July 23, 1992, which place particular emphasis on projects serving minority women. This program supports the President's AMERICA 2000 strategy for achieving the National Education Goals, especially the Goal Four objective to increase, significantly, the number of U.S. undergraduate and graduate students, especially women and minorities, who complete degrees in mathematics, science, and engineering.

Waiver of Notice of Proposed Rulemaking

In accordance with section 431(b)(2)(A) of the General Education Provisions Act [20 U.S.C. 1232(b)(2)(A)) and the Administrative Procedure Act, 5 U.S.C. 553, it is the practice of the Secretary to offer interested parties the opportunity to comment on proposed regulations. However, these amendments merely incorporate required statutory changes into the regulations or make other technical changes and do not implement substantive policy. Therefore, the Secretary has determined pursuant to 5 U.S.C. 553(b)(B) that public comment on the regulations is unnecessary and contrary to the public interest.

Executive Order 12291

These final regulations have been reviewed in accordance with Executive Order 12291. They are not classified as major because they do not meet the criteria for major regulations established in the order.

Paperwork Reduction Act of 1980

These regulations have been examined under the Paperwork Reduction Act of 1980 and have been found to contain no information collection requirements.

Intergovernmental Review

This program is subject to the requirements of Executive Order 12372 and the regulations in 34 CFR part 79. The objective of the Executive order is to foster an intergovernmental partnership and a strengthened federalism by relying on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

In accordance with the order, this document is intended to provide early notification of the Department's specific plans and actions for this program.

Assessment of Educational Impact

Based on its own review, the Department has determined that the regulations in this document do not require transmission of information that is being gathered by or is available from any other agency or authority of the United States.

List of Subjects in 34 CFR Part 637

Colleges and universities, Education department, Education of disadvantaged, Educational study programs, Equal educational opportunity, Grant programs—education, Reporting and recordkeeping requirements, Science and technology.

Dated: October 2, 1992.

(Catalog of Federal Domestic Assistance Number 84.120—A & B—Minority Science Improvement Program)

Lamar Alexander,

Secretary of Education.

The Secretary amends part 637 of title 34 of the Code of Federal Regulations as follows:

PART 637—MINORITY SCIENCE IMPROVEMENT PROGRAM

1. The authority citation for part 637 is revised to read as follows:

Authority: 20 U.S.C. 1135b–1135b–3, 1135d–1135d–3, 1135d–5, and 1135d–6, unless otherwise noted.

§ 637.1 [Amended]

2. Section 637.1 is amended by adding ", particularly minority women," after the words "ethnic minorities".

3. Section 637.3 is amended by revising paragraph (a) to read as follows:

§ 637.3 What regulations apply to the Minority Science Improvement Program?

* * * * *

(a) The Education Department General Administrative Regulations (EDGAR) as follows:

(1) 34 CFR part 74 (Administration of Grants to Institutions of Higher Education, Hospitals, and Nonprofit Organizations).

(2) 34 CFR part 75 (Direct Grant Programs).

(3) 34 CFR part 77 (Definitions that Apply to Department Regulations).

(4) 34 CFR part 79 (Intergovernmental Review of Department of Education Programs and Activities).

(5) 34 CFR part 82 (New Restrictions on Lobbying).

(6) 34 CFR part 85 (Governmentwide Debarment and Suspension (Nonprocurement) and Governmentwide Requirements for Drug-Free Workplace (Grants)).

(7) 34 CFR part 86 (Drug-Free Schools and Campuses).

* * * * *

§ 637.4 [Amended]

4. The authority citation for § 637.4 is revised to read as follows:

Authority: 20 U.S.C. 1135b–1135b–3 and 1135d–5.

§ 637.12 [Amended]

5. In § 637.12 paragraph (a) is amended by adding ", particularly minority women," after the word "students".

§ 637.14 [Amended]

6. In § 637.14 paragraph (c)(7) is amended by adding ", particularly minority women" after the word "students"; and paragraph (c)(9) is amended by adding ", particularly minority women," after the word "minorities".

§ 637.32 [Amended]

7. In § 637.32 paragraph (g)(1) is amended by adding ", particularly minority women" after the word "students"; and paragraph (i)(1) is amended by adding ", particularly minority women," after the word "students".

[FR Doc. 92–27956 Filed 11–17–92; 8:45 am]

BILLING CODE 4000–01–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[PP 8F3603/R1165; FRL–4165–4]

RIN 2070–AB78

Pesticide Tolerances for Pyridate

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes tolerances for the combined residues of the herbicide pyridate (*O*-(6-chloro-3-phenyl-4-pyridazinyl)-*S*-octyl-carbonothioate), the metabolite 6-chloro-3-phenyl-pyridazine-4-ol, and conjugates of 6-chloro-3-phenyl-pyridazine-4-ol, expressed as pyridate, in or on various raw agricultural commodities. These tolerances were requested by Agrolinz, Inc. (formerly Gilmore, Inc.) and establish the maximum permissible level for residues of the herbicide in or on these raw agricultural commodities.

EFFECTIVE DATE: Effective on October 13, 1992.

ADDRESSES: Written objections, identified by the document control number, [PP8F3603/R1165], may be submitted to: Hearing Clerk (A-110), Environmental Protection Agency, Rm. 3708, 401 M St., SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: By mail: Cynthia Giles-Parker, Product Manager (PM) 22, Registration Division (H7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 229, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202, (703)-305-5540.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of March 9, 1988 (53 FR 7570), EPA issued a notice that announced that Agrolinz, Inc. (formerly Gilmore, Inc.), 1755 N. Kirby Parkway, Suite 300, Memphis, TN 38199-4367, had submitted pesticide petition (PP) 8F3603, proposing that 40 CFR part 180 be amended by establishing tolerances under sec. 408 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a) for the combined residues of the herbicide pyridate (*O*-(6-chloro-3-phenyl-4-pyridazinyl)-*S*-octyl-carbonothioate), the main metabolite CL-9673 (6-chloro-3-phenyl-pyridazine-4-ol), and conjugates of CL-9673 in or on the following raw agricultural commodities: alfalfa (forage, seed, and hay), broccoli, cabbage (with or without wrapper leaves), corn (grain, forage, silage, and fodder), onion (bulb), peanut (nutmeat, vines, and hulls), sorghum (grain, forage, fodder, silage, and hay), and tomato fruit at 0.03 ppm and peanut hay at 0.10 ppm.

There were no comments or requests for referral to an advisory committee received in response to the notice of filing.

The petitioner subsequently amended PP 8F3603 by submitting revisions of Section F proposing the establishment of tolerances for the combined residues of *O*-(6-chloro-3-phenyl-4-pyridazinyl)-*S*-octyl-carbonothioate, the main metabolite CL-9673 (6-chloro-3-phenyl-pyridazine-4-ol), and conjugates of CL-9673 in or on the following raw agricultural commodities: cabbage (with or without wrapper leaves), corn (grain, forage, silage, fodder), and peanuts (nutmeat, hulls) at 0.03 ppm. Because these revisions did not result in lower or higher tolerances than those previously proposed and did not otherwise significantly affect the proposed tolerance, no amended notice was published.

The data submitted in the petition and other relevant material have been evaluated. The toxicology data listed below were considered in support of these tolerances.

1. Several acute toxicology studies placing technical-grade pyridate in Toxicity Category III.

2. A subchronic feeding study in rats fed dosages of 0, 62.5, 177, 500, and 500/600 milligrams per kilogram per day (mg/kg/day) with a systemic noobserved-effect-level (NOEL) of 62.5 mg/kg/day based on hypoactivity and salivation.

3. A subchronic feeding study in dogs fed dosages of 0, 20, 60, 200 mg/kg/day with a systemic NOEL of 20 mg/kg/day (lowest dose tested - LDT) (males/females).

4. A subchronic dermal study with rats, treated with dosages of 0 and 1,000 mg/kg/day with a NOEL of greater than 1,000 mg/kg/day.

5. A 2-year chronic toxicity/carcinogenicity study with rats fed dosages of 0, 80, 400, and 2,500 ppm (analytical levels of 0, 43, 216 and 1,350 ppm; 0, 2.2, 10.8 and 67.5 mg/kg/day) noted a systemic NOEL of 400 ppm (analytical dose 216 ppm; 10.8 mg/kg/day) based upon body weight depression. No carcinogenic potential was observed at any dose level.

6. An acceptable mouse carcinogenicity study with mice fed doses of pyridate at 0, 400, 800, 1,600, and 7,000 ppm resulted in no statistically significant increases in tumor incidence relative to controls in either sex. These doses are equivalent to 47.7, 97.1, 169.5, and 882.6 mg/kg/day in males and 54.5,

114.6, 204.3, and 1,004.6 mg/kg/day in females, respectively. Neither a NOEL nor a LOEL could be set because decrements in cumulative body weight gains occurred in both males and females at all doses.

7. A 1-year feeding study in dogs fed dosages of 0, 5, 20, and 60 mg/kg/day for the first 34 weeks of the study and dosage levels increased after week 34 to 30, 100, and 150 mg/kg/day noted a systemic NOEL of 20 mg/kg/day based on excessive salivation, ataxia, mydriasis, dyspnea, tremors, increased respiration and prostration.

8. A teratology study in rats fed dosages of 0, 55, 165, 400, and 495 mg/kg/day had a developmental NOEL of 165 mg/kg/day based upon increased incidence of missing and/or unossified sternebrae and decreased fetal body weight. The maternal NOEL was 165 mg/kg/day based on mortality and decreased body weight.

9. A teratology study in rabbits fed dosages of 0, 150, 300, and 600 mg/kg/day had a maternal NOEL of 300 mg/kg/day based on body weight depression. The developmental NOEL was greater than 600 mg/kg/day (HDT).

10. A multigeneration reproduction study in the rat administered dosages of 0, 80, 400, and 2,500 ppm (analytical levels of 0, 43, 216, and 1,350 ppm) hada maternal NOEL of 10.8 mg/kg/day. The reproductive NOEL was 10.8 mg/kg/day based on body weight loss.

11. Mutagenicity studies with Salmonella typhimurium were negative at dose levels ranging from 1 to 10,000 ug/plate. Pyridate was not clastogenic in assays with and without activation in Chinese hamster ovary (CHO) cells, and an unscheduled DNA synthesis assay in rats fed dosages of 0, 40, 160, and 800 mg/kg was negative.

The reference dose (RfD), based on a 2-year chronic toxicity/carcinogenicity study in rats (NOEL = 10.8 mg/kg/day) and using a safety factor of 100 is calculated to be 0.11 mg/kg/day. The current action will utilize 0.014 percent of the RfD. There are no published tolerances for this chemical.

The pesticide is useful for the purposes for which these tolerances are sought. Adequate analytical methodology (high performance liquid chromatography) is available for enforcement purposes. The method is not yet published in the Pesticide Analytical Manual, Vol. II (PAM-II), but can be obtained in the interim period as follows: By mail: Calvin Furlow, Public Information Branch, Field Operations Division (H7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Crystal Mall #2, Rm. 1126, 1921 Jefferson Davis Hwy., Arlington, VA 22202, (703) 305-5937. The nature of the residues in plants and livestock is adequately understood for the purposes of this petition. There will be no problem of secondary residues in meat, milk, poultry, and eggs because detectable residues are not expected in any feed items. There are currently no actions pending against the registration of this chemical.

Based on the information cited above, the Agency has determined that the establishment of the tolerances by amending 40 CFR part 180 will protect the public health. Therefore, the tolerances are established as set forth below.

Any person adversely affected by this regulation may, within 30 days after the date of 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 speicify 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 each such issue, 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 act; 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 FR24950).

List of Subjects in 40 CFR Part 180

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

Dated: October 13, 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 § 180.462, to read as follows:

§ 180.462 Pyridate; tolerances for residues.

Tolerances are established for the combined residues of the herbicide pyridate (*O*-(6-chloro-3-phenyl-4-pyridazinyl)-*S*-octyl-carbonothioate), the metabolite 6-chloro-3-phenyl-pyridazine-4-ol and conjugates of 6-chloro-3-phenyl-pyridazine-4-ol, expressed as pyridate, in or on the following raw agricultural commodities:

Commodity	Parts per million
Cabbage	0.03
Corn, fodder	0.03
Corn, forage	0.03
Corn, grain	0.03
Corn, silage	0.03
Peanut, hulls	0.03
Peanut, nutmeat	0.03

[FR Doc. 92-27985 Filed 11-17-92; 8:45 am]

BILLING CODE 6560-50-F

40 CFR Part 180

[PP 0F3870/R1162; FRL-4162-7]

RIN 2070-AB78

Pesticide Tolerance for Imazethapyr; Amendment of Preamble Statement of Analytical Method

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; amendment to preamble.

SUMMARY: This document amends a statement describing the analytical method for determining residues of the herbicide imazethapyr in or on corn grain, fodder, and forage that appeared in the **Federal Register** of May 27, 1992. The American Cyanamid Co. requested

this amendment to the preamble as a matter of clarification.

EFFECTIVE DATE: This regulation becomes effective November 18, 1992.

ADDRESSES: Written objections, identified by the document control number, [PP 0F3870/R1162], 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 J. Taylor, Product Manager (PM) 25, Registration Division (H7505C), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 245, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703)-305-6800.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of May 27, 1992 (57 FR 22179), EPA issued a final rule which announced that the American Cyanamid Co., P.O. Box 400, Princeton, NJ 08540, had submitted pesticide petition (PP) 0F3870 to EPA proposing that 40 CFR part 180 be amended by establishing a tolerance under section 408 of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. 346a, for residues of the herbicide imazethapyr, 2-[4,5-dihydro-4-methyl-4-(1-methylethyl)-5-oxo-1*H*-imidazol-2-yl]-5-ethyl-3-pyridine carboxylic acid, as its ammonium salt, in or on corn grain, fodder, and forage at 0.1 part per million (ppm).

The paragraph describing the analytical method for determining residues, which appeared in the second column of page 22180, reads as follows:

> Although an analytical method is available for imazethapyr on corn, the Agency has requested that the petitioner revise the analytical method to make certain improvements and revisions which will allow one method to be used for all imazethapyr tolerances. In addition, the petitioner has agreed to conduct a second independent laboratory validation (ILV). This tolerance is being established with an expiration date to assure timely submission of the revised method and subsequent validation.

The foregoing quoted paragraph from the **Federal Register** of May 27, 1992 (57 FR 22180) is revised to read as follows:

> Although an analytical method is available for imazethapyr on corn, the Agency has requested that the petitioner conduct a second independent laboratory validation (ILV) and the petitioner has agreed. This tolerance is being established with an expiration date to assure timely submission of the second independent laboratory validation (ILV).

All other aspects of the May 27, 1992 (57 FR 22179) final rule on imazethapyr remain intact and unchanged by this document. This document amends the one paragraph described above that appears on the preamble of the May 27, 1992 final rule.

List of Subjects in 40 CFR Part 180

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

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

Dated: September 22, 1992.

Douglas D. Campt,

Director, Office of Pesticide Programs.

[FR Doc. 92-27986 Filed 11-17-92; 8:45 am]

BILLING CODE 6560-50-F

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40 CFR Part 721

[OPPTS-50577G; FRL-4068-7]

Alkylated Diphenyl Oxide; Modification of Significant New Use Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is modifying a significant new use rule (SNUR) promulgated under section 5(a)(2) of the Toxic Substances Control Act (TSCA) for a chemical substance based on a modification to the section 5(e) consent order regulating that substance.

EFFECTIVE DATE: The effective date of this rule is January 19, 1993.

FOR FURTHER INFORMATION CONTACT: Susan B. Hazen, Director, Environmental Assistance Division (TS-799), Office of Pollution Prevention and Toxics, Environmental Protection Agency, rm. E-543A, 401 M St., SW., Washington, DC 20460, Telephone: (202) 554-1404, TDD: (202) 554-0551.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of June 26, 1990 (55 FR 26102), EPA issued a SNUR establishing significant new uses for alkylated diphenyl oxide (P-84-1079). Because of the modification to the consent order for this substance, EPA proposed to modify this SNUR in the **Federal Register** of May 4, 1992 (57 FR 20437).

I. Rulemaking Record

The record for the rule which EPA is modifying was established at OPTS-50577. This record includes information considered by the Agency in developing this rule and includes the modification to consent order to which the Agency has responded with this proposal.

II. Background

The Agency proposed a modification to the SNUR for this substance which was published in the **Federal Register** of May 4, 1992 (57 FR 20437). The background and the reason for proposing the modification to the SNUR are set forth in the preamble to the proposed modification. The Agency received no public comment concerning the proposed modification. As a result EPA is promulgating the modification to the SNUR as proposed. The modification eliminates the restriction that the substance may only be used at the site of manufacture.

III. Objectives and Rationale of Proposing Modification of the Rule

During review of the PMN submitted for the chemical substance that is the subject of this modification, EPA concluded that regulation was warranted under section 5(e) of TSCA pending the development of information sufficient to make a reasoned evaluation of the health or environmental effects of the substance, and EPA identified the tests considered necessary to evaluate the risks of the substance. The basis for such findings is referenced in Unit I. of this preamble. Based on these findings, a section 5(e) consent order was negotiated with the PMN submitter and a SNUR was promulgated.

In light of the exposure control requirements in the section 5(e) order and this SNUR, the PMN submitter petitioned and EPA determined that use only at the site of manufacture was not necessary to protect human health and the environment. The section 5(e) modification drops the limitation that the use occur on the same site as manufacture for the Company. The modification of SNUR provisions for this substance designated herein is consistent with the modification of the section 5(e) order.

IV. Regulatory Flexibility Act

Under the Regulatory Flexibility Act (5 U.S.C. 605(b)), EPA has determined that this rule would not have a significant impact on a substantial number of small businesses. EPA has not determined whether parties affected by this rule would likely be small businesses. However, EPA expects to receive few SNUR notices for the substance. Therefore, EPA believes that the number of small businesses affected by this rule will not be substantial, even if all of the SNUR notice submitters were small firms.

List of Subjects in 40 CFR Part 721

Chemicals, Environmental protection, Hazardous materials, Recordkeeping and reporting requirements, Significant new uses.

Dated: October 30, 1992.

Victor J. Kimm,

Acting Assistant Administrator for Prevention, Pesticides and Toxic Substances.

Therefore, 40 CFR Part 721 is amended as follows:

PART 721—[AMENDED]

1. The authority citation for Part 721 continues to read as follows:

Authority: 15 U.S.C. 2604, 2607, and 2625(c).

2. In § 721.853 by revising paragraph (a)(2)(iii) to read as follows:

§ 721.853 Alkylated diphenyl oxide (generic name).

(a) * * *

(2) * * *

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(g). The term intermediate as used in § 721.80(g) is defined as an intermediate for making sulfonated surfactants.

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[FR Doc. 92-27704 Filed 11-17-92; 8:45 am]

BILLING CODE 6560-50-F

GENERAL SERVICES ADMINISTRATION

41 CFR Part 301-2

[FTR Interim Rule 5]

Federal Travel Regulation; Use of Government Aircraft

AGENCY: Federal Supply Service, GSA.

ACTION: Interim rule.

SUMMARY: This interim rule amends the Federal Travel Regulation (FTR) to implement provisions of Office of Management and Budget (OMB) Circular No. A-126 governing authorization of Federal civilian employee travel by Government aircraft in the conduct of official business.

EFFECTIVE DATE: This interim rule is effective November 18, 1992, and applies for travel (including travel incident to a change of official station) performed on or after November 18, 1992.

FOR FURTHER INFORMATION CONTACT: Robert A. Clauson, Transportation Management Division (FBX), Washington, DC 20406, telephone FTS or commercial (703) 305-5253.

SUPPLEMENTARY INFORMATION: This interim rule implements portions of OMB Circular No. A-126 governing authorization of Federal employee travel by Government aircraft in performing official business travel. This interim rule allows agencies to authorize such travel by Government aircraft in accordance with OMB Circular No. A-126.

The General Services Administration (GSA) has issued this interim rule to ensure conformity with the provisions of OMB Circular No. A-126 which governs the use of Government aircraft and requires implementation within a 180-day timeframe. Detailed rules implementing the provisions of revised OMB Circular No. A-126 will be issued as an amendment to part 101-37 of the Federal Property Management Regulations (FPMR) (41 CFR chapter 101). Upon issuance of the implementing FPMR provisions, GSA will correspondingly issue a final implementing rule in the FTR.

GSA has determined that this rule 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 301-2

Government employees, Travel and transportation expenses.

For the reasons set out in the preamble, 41 CFR part 301-2 is amended as follows:

PART 301-2—TRANSPORTATION ALLOWABLE

1. The authority citation for part 301-2 continues to read as follows:

Authority: 5 U.S.C. 5701-5709; E.O. 11609, 36 FR 13747, 3 CFR, 1971-1975 Comp., p. 586.

2. Section 301-2.6 is amended by adding paragraph (d) to read as follows:

§ 301-2.6 Use of Government-furnished vehicles.

* * * * *

(d) *Use of Government aircraft.* Agencies may authorize an employee to travel on a Government aircraft, if use of the aircraft is justified under provisions of Office of Management and Budget (OMB) Circular No. A-126.

Dated: October 27, 1992.

Richard G. Austin,

Administrator of General Services.

[FR Doc. 92-27947 Filed 11-17-92; 8:45 am]

BILLING CODE 6820-24-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 65

Changes in Flood Elevation Determinations

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Final rule.

SUMMARY: Modified base (100-year) flood elevations are finalized for the communities listed below. These modified elevations will be used to calculate flood insurance premium rates for new buildings and their contents.

EFFECTIVE DATES: The effective dates for these modified base flood elevations are indicated on the following table and revise the Flood Insurance Rate Map(s) (FIRMs) in effect for each listed community prior to this date.

ADDRESSES: The modified base flood elevations for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the following table.

FOR FURTHER INFORMATION CONTACT: William R. Locke, Chief, Risk Studies Division, Federal Insurance Administration, 500 C Street, SW., Washington, DC 20472 (202) 646-2766.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency gives notice of the final determinations of modified base flood elevations for each community listed. These modified elevations have been published in newspapers of local circulation and ninety (90) days have elapsed since that publication. The Administrator has resolved any appeals resulting from this notification.

The modified base (100-year) flood elevations are not listed for each community in this notice. However, this rule includes the address of the Chief Executive Officer of the community where the modified base flood elevation determinations are available for inspection.

The modifications are made pursuant to section 206 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 *et seq.*, and with 44 CFR part 65.

For rating purposes, the currently effective community number is shown and must be used for all new policies and renewals.

The modified base (100-year) flood elevations are the basis for the floodplain management measures that the community is required to either

adopt or to show evidence of being already in effect in order to qualify or to remain qualified for participation in the National Flood Insurance Program.

These modified elevations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own, or pursuant to policies established by other Federal, state or regional entities.

These modified base flood elevations shall be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for second layer coverage on existing buildings and their contents.

The changes in base flood elevations are in accordance with 44 CFR 65.4.

National Environmental Policy Act

This rule is categorically excluded from the requirements of 44 CFR part 10, Environmental Consideration. No environmental impact assessment has been prepared.

Regulatory Flexibility Act

The Federal Insurance Administrator has determined that this rule is exempt from the requirements of the Regulatory Flexibility Act because modified base flood elevations are required by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are required to maintain community eligibility in the National Flood Insurance Program. No regulatory flexibility analysis has been prepared.

Regulatory Impact Analysis

This rule is not a major rule under Executive Order 12291, February 17, 1981. No regulatory impact analysis has been prepared.

Executive Order 12612, Federalism

This rule involves no policies that have federalism implications under Executive Order 12612, Federalism, dated October 26, 1987.

Executive Order 12778, Civil Justice Reform

This rule meets the applicable standards of section 2(b)(2) of Executive Order 12778.

List of Subjects in 44 CFR Part 65

Flood insurance, Floodplains, Reporting and recordkeeping requirements.

Accordingly, 44 CFR part 65 is amended as follows:

PART 65—[AMENDED]

1. The authority citation for part 65 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.*; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§ 65.4 [Amended]

2. The tables published under the authority of § 65.4 are amended as follows:

State and county	Location	Dates and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community No.
California: San Diego	City of San Diego (Docket No. 7046).	June 19, 1992, June 26, 1992, *San Diego Daily Transcript.*	The Honorable Maureen O'Conner, Mayor, City of San Diego, 202 "C" Street, 11th Floor, San Diego, California 92101.	June 23, 1992	060295
Kansas: Johnson	City of Shawnee (Docket No. 7049).	July 8, 1992, July 15, 1992, *Journal Herald.*	The Honorable Robert Best, Mayor, City of Shawnee, 11110 Johnson Drive, Shawnee, Kansas 66203.	July 10, 1992	200177
Maine: Hancock, (FEMA Docket No. 7049).	Town of Southwest Harbor	July 2, 1992, July 9, 1992, *The Bar Harbor Times.*	Mr. Kenneth Minier, Manager of the Town of Southwest Harbor, P.O. Box 745, Southwest Harbor, Maine 04679.	June 17, 1992	230293 B
Ohio: Franklin, (FEMA Docket No. 7043).	City of Gahanna	Apr. 29, 1992, May 6, 1992, *Rocky Fork Enterprise.*	The Honorable James F. McGregor, Mayor of the City of Gahanna, Franklin County, 200 South Hamilton Road, Gahanna, Ohio 43230-2996.	Apr. 14, 1992	390171 B
Texas: Dallas	City of Irving (Docket No. 7049).	July 16, 1992, July 23, 1992, *Irving News.*	The Honorable Roy F. Brown, Mayor, City of Irving, City Hall, P.O. Box 152288, Irving, Texas 75015.	June 24, 1992	480180
Texas: Tarrant	City of Arlington (Docket No. 7049).	July 29, 1992, Aug. 5, 1992, *Fort Worth Star Telegram.*	The Honorable Richard Greene, Mayor, City of Arlington, P.O. Box 231, Arlington, Texas 76004-0231.	June 26, 1992	485454

(Catalog of Federal Domestic Assistance No. 83.100, "Flood Insurance.")

Issued: November 9, 1992.

C.M. "Bud" Schauerte,

Administrator, Federal Insurance Administration.

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BILLING CODE 6718-03-M

44 CFR Part 65

[Docket No. FEMA-7054]

Changes in Flood Elevation Determinations

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Interim rule.

SUMMARY: This interim rule lists communities where modification of the base (100-year) flood elevations is appropriate because of new scientific or technical data. New flood insurance premium rates will be calculated from the modified base (100-year) flood elevations for new buildings and their contents.

DATES: These modified base flood elevations are currently in effect on the dates listed in the table and revise the Flood Insurance Rate Map(s) (FIRMs) in effect prior to this determination for each listed community.

From the date of the second publication of these changes in a newspaper for local circulation, any person has ninety (90) days in which to request through the community that the Administrator reconsider the changes.

The modified elevations may be changed during the 90-day period.

ADDRESSES: The modified base flood elevations for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the following table.

FOR FURTHER INFORMATION CONTACT: William R. Locke, Chief, Risk Studies Division, Federal Insurance Administration, 500 C Street, SW., Washington, DC 20472, (202) 646–2766.

SUPPLEMENTARY INFORMATION: The modified base (100-year) flood elevations are not listed for each community in this interim rule. However, the address of the Chief Executive Officer of the community where the modified base flood elevation determinations are available for inspection is provided.

Any request for reconsideration must be based upon knowledge of changed conditions, or upon new scientific or technical data.

The modifications are made pursuant to section 201 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 *et seq.*, and with 44 CFR part 65.

For rating purposes, the currently effective community number is shown and must be used for all new policies and renewals.

The modified base (100-year) flood elevations are the basis for the floodplain management measures that the community is required to either adopt or to show evidence of being already in effect in order to qualify or to remain qualified for participation in the National Flood Insurance Program.

These modified elevations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own, or pursuant to policies established by other Federal, state or regional entities.

The changes in base flood elevations are in accordance with 44 CFR 65.4.

National Environmental Policy Act

This rule is categorically excluded from the requirements of 44 CFR Part 10, Environmental Consideration. No environmental impact assessment has been prepared.

Regulatory Flexibility Act

The Federal Insurance Administrator has determined that this rule is exempt from the requirements of the Regulatory Flexibility Act because modified base flood elevations are required by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are required to maintain community eligibility in the National Flood Insurance Program. No regulatory flexibility analysis has been prepared.

Regulatory Impact Analysis

This rule is not a major rule under Executive Order 12291, February 17, 1981. No regulatory impact analysis has been prepared.

Executive Order 12612, Federalism

This rule involves no policies that have federalism implications under Executive Order 12612, Federalism, dated October 26, 1987.

Executive Order 12778, Civil Justice Reform

This rule meets the applicable standards of section 2(b)(2) of Executive Order 12778.

List of Subjects in 44 CFR Part 65

Flood insurance, Floodplains, Reporting and recordkeeping requirements.

Accordingly, 44 CFR part 65 is amended as follows:

PART 65—[AMENDED]

1. The authority citation for part 65 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.*; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§ 65.4 [Amended]

2. The tables published under the authority of § 65.4 are amended as follows:

State and county	Location	Dates and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community No.
Alaska: Unorganized Borough.	City of Valdez	Oct. 22, 1992, Oct. 29, 1992, *The Valdez Pioneer.*	The Honorable Lynn Chrystal, Mayor, City of Valdez, P.O. Box 307, Valdez, Alaska 99686.	Sept. 29, 1992	020094
Arizona: Maricopa	City of Phoenix	Oct. 22, 1992, Oct. 29, 1992, *The Arizona Republic.*	The Honorable Paul Johnson, Mayor, City of Phoenix, 251 West Washington Street, Phoenix, Arizona 85003.	Oct. 1, 1992	040051
California: Riverside	City of Riverside	Nov. 27, 1992, Dec. 4, 1992, *The Press Enterprise.*	The Honorable Terry Frizzel, Mayor, City of Riverside, 3900 Main Street, Riverside, California 92522.	Oct. 28, 1992	060260
California: Riverside	Unincorporated Areas	Oct. 30, 1992, Nov. 6, 1992, *The Press Enterprise.*	The Honorable Terry Frizzel, Mayor, City of Riverside, 3900 Main Street, Riverside, California 92522.	Oct. 1, 1992	060260
California: Sacramento	Unincorporated Areas	Oct. 22, 1992, Oct. 29, 1992, *Sacramento Bee.*	Mr. Douglas M. Fraleigh, Director, Sacramento County Department of Public Works, 827 Seventh Street, Room 301, Sacramento, California 95814.	Oct. 1, 1992	060262
California: Solano	City of Fairfield	Nov. 2, 1992, Nov. 9, 1992, *The Daily Republic.*	The Honorable Gary Falati, Mayor, City of Fairfield, 1000 Webster Street, Fairfield, California 94533.	Oct. 27, 1992	060370
California: Solano	Unincorporated Areas	Nov. 2, 1992, Nov. 9, 1992, *The Daily Republic.*	The Honorable Lee Simmons, Chairperson, Solano County Board of Supervisors, 580 Texas Street, Fairfield, California 94533.	Oct. 27, 1992	060631
Georgia: Glynn	Unincorporated Areas	Oct. 26, 1992, Nov. 2, 1992, *The Brunswick News.*	Mr. E.C. Tillman, Chairman of the Glynn County Commission, P.O. Box 879, Brunswick, Georgia 31521.	Oct. 19, 1992	130092 D
Illinois: Cook	Unincorporated Areas	Feb. 7, 1992, Feb. 14, 1992, *Chicago Tribune.*	Mr. Richard J. Phelan, President of the Cook County Board of Commissioners, County Building, Room 537, 118 North Clark Street, Chicago, Illinois 60602.	Jan. 27, 1992	170054 B

State and county	Location	Dates and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community No.
Indiana: Lake	Town of Dyer	Oct. 29, 1992, Nov. 5, 1992, *Post-Tribune*.	Mr. Michael J. Kapitan, President of the Council for the Town of Dyer, One Town Square, Dyer, Indiana 46311.	Oct. 19, 1992	180129
Kansas: Johnson	City of Olathe	Oct. 23, 1992, Oct. 30, 1992, *Olathe Daily News*.	The Honorable Jacob Ruf, Mayor, City of Olathe, P.O. Box 768, Olathe, Kansas 66061.	Oct. 6, 1992	200173
Ohio: Medina	City of Brunswick	May 14, 1992, May 21, 1992, *Brunswick Sun Times*.	The Honorable Judith A. Beadell-Rapp, Mayor of the City of Brunswick, Medina County, 4095 Center Road, Brunswick, Ohio 44212.	May 5, 1992	390350 B
Oklahoma: Canadian/ Cleveland.	City of Oklahoma City	Oct. 22, 1992, Oct. 29, 1992, *Journal Record*.	The Honorable Ronald J. Norick, Mayor, City of Oklahoma City, 200 North Walker, Oklahoma City, Oklahoma 73102.	Oct. 5, 1992	405378
Oregon: Jackson	Unincorporated Areas	Oct. 22, 1992, Oct. 29, 1992, *Medford Mail Tribune*.	The Honorable Sue Kupillas, Chairperson, Jackson County Board of Commissioners, Jackson County Courthouse, Room 200, 10 South Oakdale, Medford, Oregon 97501.	Oct. 5, 1992	415589
Texas: Tarrant and Denton.	City of Fort Worth	Jan. 23, 1992, Jan. 30, 1992, *Fort Worth Star-Telegram*.	The Honorable Kay Granger, Mayor of the City of Fort Worth, 1000 Throckmorton Street, Fort Worth, Texas 76102.	Jan. 17, 1992	480596 D
Virginia: Prince William	Unincorporated Areas	Oct. 21, 1992, Oct. 28, 1992, *The Prince William Journal* and the *Potomac News*.	Ms. Kathleen Seefeldt, Chairman of the Prince William County Board of Supervisors, 1 County Complex Court, Prince William, Virginia 22192-9201.	Oct. 1, 1992	510119 B
Virginia: Stafford	Unincorporated Areas	Oct. 20, 1992, Oct. 27, 1992, *Potomac News*.	Mr. C.M. Williams, Jr., Administrator for Stafford County, P.O. Box 339, Stafford, Virginia 22554-0339.	Sept. 30, 1992	510154 B
Washington: Walla Walla	Unincorporated Areas	Nov. 12, 1992, Nov. 19, 1992, *Waitsburg Times*.	The Honorable David Carey, Chairman, Board of Walla Walla County Commissioners, P.O. Box 1506, Walla Walla, Washington 99362.	Oct. 21, 1992	530194

(Catalog of Federal Domestic Assistance No. 83.100, "Flood Insurance.")

Issued: November 9, 1992.

C.M. "Bud" Schauerte,

Administrator, Federal Insurance Administration.

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44 CFR Part 67

Final Flood Elevation Determinations

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Final rule.

SUMMARY: Base (100-year) flood elevations and modified base (100-year) flood elevations are made final for the communities listed below.

The base (100-year) flood elevations and modified base flood elevations are the basis for the floodplain management measures that each community is required either to adopt or to show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATES: The date of issuance of the Flood Insurance Rate Map (FIRM) showing base flood elevations and modified base flood elevations for each community. This date may be obtained by contacting the office where the maps are available for inspection as indicated on the table below.

ADDRESSES: The final base flood elevations for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the following table.

FOR FURTHER INFORMATION CONTACT: William R. Locke, Chief, Risk Studies Division, Federal Insurance Administration, 500 C Street, SW., Washington, DC 20472, (202) 646-2766.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA or Agency) gives notice of the final determinations of base flood elevations and modified base flood elevations for each community listed. The proposed base flood elevations and proposed modified base flood elevations were published in newspapers of local circulation and an opportunity for the community or individuals to appeal the proposed determinations to or through the community was provided for a period of ninety (90) days. The proposed base flood elevations and proposed modified base flood elevations were also published in the Federal Register.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR part 67.

The Agency has developed criteria for floodplain management in floodprone areas in accordance with 44 CFR part 60.

National Environmental Policy Act

This rule is categorically excluded from the requirements of 44 CFR part 10, Environmental Consideration. No environmental impact assessment has been prepared.

Regulatory Flexibility Act

The Federal Insurance Administrator has determined that this rule is exempt from the requirements of the Regulatory Flexibility Act because final or modified based flood elevations are required by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and are required to establish and maintain community eligibility in the National Flood Insurance Program. No regulatory flexibility analysis has been prepared.

Regulatory Impact Analysis

This rule is not a major rule under Executive Order 12291, February 17, 1981. No regulatory impact analysis has been prepared.

Executive Order 12612, Federalism

This rule involves no policies that have federalism implications under Executive Order 12612, Federalism, dated October 26, 1987.

Executive Order 12778, Civil Justice Reform

This rule meets the applicable standards of section 2(b)(2) of Executive Order 12778.

Interested lessees and owners of real property are encouraged to review the proof Flood Insurance Study and Flood Insurance Rate Map available at the address cited below for each community.

The base flood elevations and modified based flood elevations are made final in the communities listed below. Elevations at selected locations in each community are shown.

List of Subjects in 44 CFR Part 67

Administrative practice and procedure, Flood insurance, Reporting and recordkeeping requirements.

Accordingly, 44 CFR part 67 is amended as follows:

PART 67—[AMENDED]

1. The authority citation for part 67 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.*; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§ 67.11 [Amended]

2. The tables published under the authority of § 67.11 are amended as follows:

Source of flooding and location	‡Depth in feet above ground. *Elevation in feet (NGVD)
ALABAMA	
Huntsville (City), Madison County (FEMA Docket No. 7045)	
Sherwood Branch:	
About 0.76 mile upstream of Wynn Avenue	*656
Just upstream of Rideout Road	*682
About 700 feet upstream of Rideout Road	*682
Tributary to Sherwood Branch:	
At mouth	*657
Just upstream of Rideout Road	*660
McDonald Creek:	
About 2,700 feet downstream of Bob Wallace Avenue	*620
Just upstream of Bob Wallace Avenue	*630
Maps available for inspection at the Public Works Department, Huntsville, Alabama.	
ARIZONA	
Coconino County (Unincorporated Areas) (FEMA Docket No. 7045)	
Baderville Tributary:	
Approximately 1,100 feet downstream of Bader Road	*7,301
Just upstream of Suzette Lane	*7,312
Approximately 1,600 feet upstream of confluence of Tributary No. 2	*7,324
Tributary No. 1 to Baderville Tributary:	
Just upstream of Bader Road	*7,308
Approximately 1,800 feet upstream of Bader Road	*7,315
Approximately 2,800 feet upstream of Bader Road	*7,322
Tributary No. 2 to Baderville Tributary:	
At confluence with Baderville Tributary	*7,315
Approximately 1,400 feet above confluence with Baderville Tributary	*7,321
Maps are available for review at Coconino County Flood Control District, 219 East Cherry Street, Flagstaff, Arizona.	
CALIFORNIA	
Fontana (City), San Bernardino County (FEMA Docket No. 7047)	
West Fontana Channel:	
Just east of the intersection of Orange Way and Oleander Avenue	*1,242
Approximately 200 feet northeast of the intersection of Citrus Avenue and the Atchison Topeka and Santa Fe Railroad	*1,232
At the intersection of Citrus Avenue and Merrill Avenue	#1
At the intersection of Randall Avenue and Date Street	#2
At the intersection of Ceres Avenue and Oleander Avenue	#3
Maps are available for review at the City of Fontana Engineering Services, City Hall, 8353 Sierra Avenue, Fontana, California.	
Marina (City), Monterey County (FEMA Docket No. 7048)	
Infiltration Pond:	
Just east of the intersection of Dunes Drive and Dunes Court	*16
Approximately 500 feet northeast of the intersection of Abdy Way and Cardoza Avenue	*11
Approximately 900 feet northeast of the intersection of Abdy Way and Cardoza Avenue, just east of Abdy Way	*20
Approximately 1,000 feet northeast of the intersection of Abdy Way and Cardoza Avenue, just east of Abdy Way	*25
Approximately 500 feet southeast of the intersection of Del Monte Boulevard and Cosky Drive	*60
Approximately 300 feet northeast of the intersection of Cosky Drive and Michael Drive	*26
Approximately 1,000 feet south of the intersection of State Highway 1 and Reservation Road, just east of State Highway 1	*8
Just west of the intersection of Beach Road and Reservation Road	*9
Just north of the intersection of Beach Road and Reservation Road	*7
Just east of the intersection of Beach Road and Reservation Road	*7
Approximately 800 feet southwest of the intersection of Beach Road and DeForest Road, along DeForest Road	*54
At the intersection of Lake Road and Seaside Avenue	*13
Just southeast of the intersection of Beach Road and Seaside Avenue	*8
Approximately 1,000 feet northwest of Lake Road and Messinger Drive	*5
At the northwest corner of the intersection of Lake Road and Messinger Drive	*8
Just east of the intersection of Hillcrest Avenue and Berney Drive	*73
Approximately 500 feet southwest of the intersection of Reindollar Avenue and King Circle, just west of King Circle	*90
Approximately 1,000 feet southwest of the intersection of Reindollar Avenue and Ellen Court	*73
At the intersection of Sunset Avenue and Cypress Avenue	*30
Natural Depression:	
Approximately 500 feet north of the intersection of Del Monte Boulelvard and Cosky Drive, just west of Del Monte Boulevard	*37
Approximately 1,000 feet southwest of the intersection of Marina Drive and Palm Avenue, along Marina Drive	*25
Just east of the intersection of Reindollar Avenue and Del Monte Boulevard	*34
Maps are available for review at City Hall, 211 Hillcrest Avenue, Marina, California.	
CONNECTICUT	
Berlin (Town), Hartford County (FEMA Docket No. 7048)	
Hatchery Brook:	
Approximately 700 feet downstream of Four Rod Road	*47
Upstream side of Orchard Road	*158
Crooked Brook:	
At confluence with Belcher Brook	*51
Approximately 50 feet upstream of CONRAIL bridge	*81
Belcher Brook:	
Approximately 900 feet downstream of Norton Road	*47
At upstream corporate limits	*152
Spruce Brook:	
Approximately 1,900 feet upstream of the confluence with Mattabesset River	*31
Approximately 100 feet upstream of Spruce Brook Road	*124
Willow Brook:	
Approximately 50 feet downstream of Demino Road	*44
At the upstream corporate limits	*75
Stocking Brook:	
Aproximately 50 feet upstream of confluence with Mattabessett River	*168
Upstream side of Percival Park Road	*398
John Hall Brook:	
At confluence with Stocking Brook	*181
Approximately 0.5 mile upstream of the most upstream crossing of Edgewood Road	*335
Maps are available for inspection at the Engineering Department, Berlin Town Hall, 240 Kensington Road, Berlin, Connecticut.	
DELAWARE	
Delaware City (City), New Castle County (FEMA Docket No. 7042)	
Delaware River: Entire shoreline within community	*10
Maps are available for inspection at the City Hall, 407 Clinton Street, Delaware City, Delaware.	
FLORIDA	
Gainsville (City), Alachua County (FEMA Docket No. 7042)	
Hogtown Creek Tributary 1:	
About 1,600 feet upstream of Northwest 34th Street	*113
Just downstream of Northwest 36th Drive	*116
Just upstream of Northwest 36th Drive	*122
Just downstream of Northwest 53rd Avenue	*155
Just upstream of Northwest 53rd Avenue	*167
Just upstream of culvert	*180
Just downstream of Northwest 62nd Avenue	*182
About 800 feet upstream of Northwest 68th Avenue	*191
Hogtown Creek Tributary 2:	
At mouth	*140
About 500 feet upstream of mouth	*143
Maps available for inspection at the City of Gainesville, Alachua County, Florida.	
GEORGIA	
Chattooga County (Unincorporated Areas) (FEMA Docket No. 7042)	
Chattooga River:	
About 1.5 miles downstream of Holland-Chattoogaville Road	*597
About 0.5 mile upstream of Holland-Chattoogaville Road	*603
Hinton Creek:	
At mouth	*603
Just upstream of Private Road	*603
Maps available for inspection at Chattooga County, Summerville, Georgia.	
Mineral Bluff (Town), Fannin County (FEMA Docket No. 7045)	
Hemptown Creek:	
About 2,400 feet upstream of mouth	*1,544
About 2,900 feet upstream of Old Murphy Highway	*1,583
Maps available for inspection at the Town Hall, Mineral Bluff, Georgia.	
IDAHO	
Boise (City), Ada County (FEMA Docket No. 7048)	
Stuart Gulch:	
At the intersection of Hill Road and Stuart Gulch Road	‡1
At the northernmost intersection of Shasta Street and North 36th Street	‡1
Crane Gulch:	
At the intersection of Dora Street and North 16th Street	‡1
At the intersection of Good Street and North 17th Street	‡1
Hulls Gulch: At the intersection of Heron Street and North 9th Street	‡1
Cottonwood Creek:	
Approximately 1,200 feet north of the intersection of Mountain Cove Road and Reserve Street	‡1
Approximately 500 feet north of the intersection of Reserve Street and Avenue H	‡1
At the intersection of Krall Street and Avenue C	‡1
Maps are available for review at the Public Works Department, City of Boise, City Hall, 150 North Capitol Boulevard, 4th Floor, Boise, Idaho.	

Source of flooding and location	Depth in feet above ground. *Elevation in feet (NGVD)
KANSAS	
Pittsburg (City), Crawford County (FEMA Docket No. 7048)	
East Fork Taylor Branch:	
About 1,820 feet downstream of 4th Street	*899
Just downstream of Southeast Kansas Railroad, about 550 feet downstream of 27th Street	*919
Just upstream of Southeast Kansas Railroad, about 750 feet downstream of 27th Street	*925
Just downstream of Atkinson Road	*930
Maps available for inspection at the City Hall, 201 West 4th Street, Pittsburg, Kansas.	
MAINE	
Perry (Town), Washington County (FEMA Docket No. 7048)	
Boyden Lake: Entire shoreline within community	*79
Atlantic Ocean:	
Sipp Bay: At Burby Road extended	*15
Passamaquoddy Bay: At northern corporate limits	*25
Maps available for inspection at the Perry Town Office, Municipal Building, Route 1, Perry, Maine.	
MICHIGAN	
Buchanan (City), Berrien County (FEMA Docket No. 7042)	
McCoy Creek:	
At confluence with St. Joseph River	*642
Just downstream of Amtrak	*708
Maps available for inspection at the Buchanan City Hall, City Clerk's Office, 304 North Redbud Trail, P.O. Box 407, Buchanan, Michigan	
Novi (City), Oakland County (FEMA Docket No. 7048)	
Walled Lake Branch:	
About 800 feet upstream of CSX railroad	*812
Just downstream of Flint Street	*900
Just upstream of Flint Street	*908
About 1.44 miles upstream of Twelve Mile Road	*933
Thornton Creek:	
At mouth	*826
Just downstream of Nine Mile Road	*902
Just upstream of Nine Mile Road	*907
Just downstream of Ten Mile Road	*961
Chapman Creek:	
At mouth	*858
Just downstream of Novi Road	*888
Just upstream of Novi Road	*893
Ingersol Creek:	
At mouth	*839
Just downstream of Grand River Avenue	*853
Just upstream of Grand River Avenue	*858
Just downstream of Interstate 96 ramp	*861
Munro Creek:	
At mouth	*889
Just downstream of Taft Road	*929
Shaw Creek:	
At mouth	*932
About 1.1 miles upstream of mouth	*943
Leavenworth Creek:	
At mouth	*898
About 2,300 feet upstream of mouth	*907
Bishop Creek:	
At mouth	*842
Just downstream of dam	*897
Tributary C:	
At mouth	*953
About 2,000 feet upstream of mouth	*955
Novi-Lyon Drain:	
Just upstream of Napier Road	*949
About 3,500 feet upstream of Napier Road	*953
Thornton Creek Diversion:	
At mouth	*832
At divergence from Thornton Creek	*830
Maps available for inspection at the Building Department, Civic Center, 45175 West Ten Mile Road, Novi, Michigan.	
MISSISSIPPI	
Pearl River Valley Water Supply District, Madison, Hinds, Leake, Scott, and Rankin Counties (FEMA Docket No. 7045)	
Pearl River (Ross Barnett Reservoir):	
Along shoreline downstream of State Highway 43	*300
Along shoreline upstream of State Highway 43	*301
Pearl River:	
About 1.0 mile downstream of Ross Barnett Reservoir Dam	*286
Just downstream of Ross Barnett Reservoir Dam	*287
Brashear Creek:	
Just upstream of County Line Road	*286
About 900 feet upstream of Rice Road	*297
Culley Creek: Within community	*296
Haley Creek:	
About 1,200 feet downstream of Old Rice Road	*300
About 1,000 feet upstream of Old Rice Road	*308
Stream "M":	
At mouth	*301
About 0.5 mile upstream of mouth	*304
Pelahatchie Creek:	
About 0.8 mile downstream of State Highway 471	*300
About 1,300 feet upstream of State Highway 25	*307
Pelahatchie Creek Tributary:	
At mouth	*306
About 300 feet upstream of State Highway 25	*307
Plummer Slough:	
About 800 feet downstream of State Highway 471	*303
About 1,200 feet upstream of State Highway 25	*307
Spring Branch:	
About 0.8 mile downstream of North Shore Parkway	*300
About 0.6 mile upstream of North Shore Parkway	*306
Mill Creek:	
Just upstream of Spillway Road	*300
About 1,900 feet upstream of Spillway Road	*305
Turtle Creek:	
Just downstream of Scenic Drive	*300
About 1,000 feet upstream of Spillway Road	*306
Maps available for inspection at the Pearl River Valley Water Supply District Offices, Rice Road, Madison County at the Ross Barnett Reservoir.	
Tishomingo (Unincorporated Areas) (FEMA Docket No. 7045)	
Indian Creek:	
At mouth	*420
About 1.1 miles upstream of Mount Evergreen Road	*514
Tennessee River:	
About 3.5 miles downstream of confluence of Whetstone Branch	*420
About 4.4 miles upstream of confluence of Indian Creek	*421
Tennessee-Tombigee Waterway:	
At mouth	*420
North of Bay Springs Dam	*420
Maps available for inspection at the Chancery Clerk's Office, Tishomingo County Courthouse, 1008 Highway 25 South, Iuka, Mississippi.	
MISSOURI	
Berkeley (City), St. Louis County (FEMA Docket No. 7048)	
Maline Creek:	
Just upstream of North Hanley Road	*515
Just upstream of Interstate 70	*520
About 1,320 feet upstream of Rolling Drive	*527
Maps available for inspection at the City Manager's Office, 6140 N. Hanley Road, Berkeley, Missouri.	
Cool Valley (City), St. Louis County (FEMA Docket No. 7048)	
Ball Creek:	
About 450 feet downstream of Florissant Road	*500
Just downstream of Florissant Road	*502
Maps available for inspection at the City Clerk's Office, City Hall, 100 Signal Hill Drive, Cool Valley, Missouri.	
Kinloch (City), St. Louis County (FEMA Docket No. 7045)	
Maline Creek:	
About 2,240 feet downstream of Martin Luther King Boulevard	*502
Just downstream of North Hanley Road	*514
Maps available for inspection at 5990 Monroe Street, Kinloch, Missouri.	
NEW HAMPSHIRE	
Lyme (Town), Grafton County (FEMA Docket No. 7006)	
Connecticut River:	
At the downstream corporate limits	*397
At the upstream corporate limits	*408
Hewes Brook:	
At the downstream side of State Route 10	*663
Approximately 275 feet upstream of Bliss Road	*847
Grant Brook:	
At State Route 10	*484
Approximately 50 feet upstream of Dorchester Road	*794
Clay Brook:	
At North Thetford Road	*426
Approximately .6 mile upstream of North Thetford Road	*436
Trout Brook:	
Approximately .3 mile downstream of State Route 10	*436
Approximately 125 feet upstream of Pinnacle Road	*690
Maps available for inspection at the Town Clerk's Vault, Town Office, Lyme, New Hampshire.	
NEW JERSEY	
Mine Hill (Township), Morris County (FEMA Docket No. 7042)	
Lamington River:	
At downstream corporate limits	*706
Approximately .5 mile upstream of downstream corporate limits	*707
Maps available for inspection at the Mine Hill Municipal Building, 10 Baker Street, Mine Hill, New Jersey.	
NORTH CAROLINA	
Lumberton (City), Robeson County (FEMA Docket No. 7042)	
Jacob Swamp:	
About 3,250 feet downstream of Contempora Drive	*124
Just upstream of Contempora Drive	*126
Just upstream of U.S. Route 74	*130
Maps available for inspection at the Planning and Inspection Department, City of Lumberton, Robeson County, North Carolina.	
Robeson County (Unincorporated Areas) (FEMA Docket No. 7042)	
Jacob Swamp:	
About 950 feet downstream of Contempora Drive	*124
Just upstream of Contempora Drive	*126
Just upstream of U.S. Route 74	*130
Maps available at the Robeson County Inspection Department, Lumberton, North Carolina.	
OHIO	
Westerville (City), Franklin and Delaware Counties (FEMA Docket No. 7047)	
Spring Run:	
About 600 feet downstream of Dempsey Road	*826
Just downstream of Maxtown Road	*893
Big Walnut Creek:	
About 1.22 miles downstream of Central College Road	*828
Just downstream of Central College Road	*833
Alum Creek:	
About 2,200 feet downstream of West Schrock Road	*798
About 1.48 miles upstream of West Main Street	*814
Maps available for inspection at 21 South State Street, Westerville, Ohio.	
SOUTH CAROLINA	
Clemson (City), Pickens and Anderson Counties (FEMA Docket No. 7042)	
Tributary No. 1:	
Just downstream of U.S. Highway 123	*750
Just upstream of U.S. Highway 123	*759
Just downstream of Ashley Road	*780
Just upstream of Ashley Road	*788
Just downstream of Prince Ranier Drive	*799
Tributary A:	
At mouth	*788
Just downstream of Shaftsbury Road	*789
At Shaftsbury Road	*795
Maps Available for Inspection at the City Hall, 1200-3 Tiger Boulevard, Clemson, South Carolina.	
Texas	
San Angelo (City), Tom Green County (FEMA Docket No. 7048)	
Concho River:	
At State Route 306	*1,796
Approximately 700 feet downstream of Bell Street	*1,802
East Angelo Draw:	
At confluence with Concho River	*1,801
At 50th Street	*1,895
South Concho River:	
Approximately .5 mile upstream of confluence with Concho and North Concho Rivers	*1,805
At upstream corporate limits	*1,880
Strema RA-2:	
At confluence with Red Arroyo	*1,898
At FM 2288	*1,950

Source of flooding and location	Depth in feet above ground. *Elevation in feet (NGVD)
Red Arroyo:	
Approximately 100 feet upstream of the confluence with South Concho River	*1,807
Approximately 100 feet upstream of FM 2288	*1,947
South Fork Red Arroyo:	
Approximately 1,400 feet upstream of College Hills Boulevard	*1,871
Approximately 1,650 feet upstream of Oak Grove	*1,909
West Branch South Fork Red Arroyo:	
At confluence with South Fork Red Arroyo	*1,891
Approximately 600 feet upstream of Southland Boulevard	*1,915
Red Arroyo Diversion:	
Approximately 280 feet downstream of E. Avenue L	*1,815
At the divergence from Red Arroyo (approximately 80 feet upstream of E. Avenue L)	*1,816
Goodfellow Draw:	
At confluence with Concho River	*1,798
Approximately 90 feet upstream of Paint Rock Road (westbound)	*1,839
Middle Concho River:	
At confluence with South Concho River	*1,873
At corporate limits	*1,880
North Concho River:	
Approximately 1,500 feet upstream of confluence with South Concho and Concho Rivers	*1,804
Aproximately .75 mile upstream of 29th Street	*1,853
Sulfur Draw:	
Aproximately 560 feet upstream of confluence with North Concho River	*1,822
Approximately 90 feet upstream of S. Madison Street	*1,850
Brentwood Park:	
At confluence with North Concho River	*1,838
Approximately 50 feet upstream of North Howard Street	*1,872
Lake Creek:	
Approximately .3 mile downstream of Cactus Lane	*1,916
Approximately 600 feet upstream of Cactus Lane	*1,920
Maps available for inspection at the San Angelo City Hall, 72 College Street, San Angelo, Texas.	

(Catalog of Federal Domestic Assistance No. 83.100, "Flood Insurance.")

Issued: November 9, 1992.

C.M. "Bud" Schauerte,

Administrator, Federal Insurance Administration.

[FR Doc. 92–27820 Filed 11–18–92; 8:45 am]

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FEDERAL MARITIME COMMISSION

46 CFR Part 586

[Petition No. P2–92; Docket No. 92–42]

Actions To Adjust or Meet Conditions Unfavorable to Shipping in the United States/Korea Trade

AGENCY: Federal Maritime Commission.

ACTION: Final rule.

SUMMARY: The Federal Maritime Commission publishes this final rule, pursuant to section 19(1)(b) of the Merchant Marine Act, 1920, in response to a petition for relief from conditions allegedly unfavorable to shipping in the United States-Korea trade resulting from Republic of Korea laws. The final rule imposes sanctions on Korean, non-U.S. citizen, owned or controlled ocean freight forwarders and non-vessel-operating common carriers, but suspends the effective date of the sanctions until September 1, 1993.

DATES: Section 586.4 (a) and (e) effective December 18, 1992. Section 586.4 (b), (c), and (d) effective September 1, 1993. Further comments due on or before July 31, 1993.

ADDRESSES: Further comments (original and 15 copies) are to be submitted to: Joseph C. Polking, Secretary, Federal Maritime Commission, 800 North Capitol Street, NW., Washington, DC 20573, (202) 523–5725.

FOR FURTHER INFORMATION CONTACT: Robert D. Bourgoin, General Counsel, Federal Maritime Commission, 800 North Capitol Street, NW., Washington, DC 20573, (202) 523–5740.

SUPPLEMENTARY INFORMATION:

Proceeding

Section 19 of the Merchant Marine Act, 1920, 46 U.S.C. app. 876, as amended by Pub. L. No. 101–595, 104 Stat. 2979 ("Section 19"), authorizes the Federal Maritime Commission ("Commission" or "FMC") to take regulatory action to correct unfavorable shipping conditions in U.S. foreign oceanborne commerce. Specifically, paragraph (1)(b) of Section 19 directs the Commission.

(t)o make rules and regulations affecting shipping in the foreign trade not in conflict with law in order to adjust or meet general or special conditions unfavorable to shipping in the foreign trade, whether in any particular trade or upon any particular route or in commerce generally, including intermodal movements, terminal operations, cargo solicitation, forwarding and agency services, non-vessel-operating common carrier operations and other activities and services integral to transportation systems, and which arise out of or result from foreign laws, rules, or regulations or from competitive methods or practices employed by owners, operators, agents or masters of vessels of a foreign country.

46 U.S.C. app. 876(1)(b).

On July 1, 1992 the Commission issued a notice of proposed rulemaking ("proposed rule") in this proceeding in response to a petition for relief ("Petition") filed pursuant to section 19 by Direct Container Line, Inc. ("Petitioner" or "DCL") alleging conditions unfavorable to shipping in the United States-Korea trade ("Trade"). DCL, a California corporation operating as a non-vessel operating common carrier ("NVOCC") in the outbound Trade, averred that it has been prevented by Korean law from establishing a branch office in Korea and from operating in the inbound Trade. The proposed rule, published at 57 FR 30182 (July 8, 1992), found that conditions unfavorable to shipping did exist in the Trade as a result of the Korean Maritime Transportation Business Act ("Korean Act"), a statute of the Republic of Korea ("ROK").

Under the Korean Act, foreign investment in a range of maritime businesses classified generically as "maritime freight forwarding business, etc.," including "Maritime Freight Forwarding Business; Maritime Transportation Brokering Business; Shipping Agency Business; Vessel Chartering Business; and Vessel Management Business," is limited to 49 per cent, and such businesses are further required to have as the representative of such company "a domestic person," *i.e.* a Korean citizen. The Act thus imposes a strict nationality-based requirement for participation as a freight forwarder or NVOCC in the Trade from Korea, and provides penalties for violation, including imprisonment and substantial fines. The proposed rule noted that ongoing efforts by the U.S. Trade Representative ("USTR") and discussions by the U.S. embassy in talks with representatives of the Government of Korea had failed to resolve the problem.

The proposed rule determined that the Korean Act is, on its face, discriminatory in that it clearly establishes nationality-based requirements for non-Korean companies wishing to participate in the Trade and flatly prohibits companies owned by U.S. citizens, as well as other non-Koreans, from participating in the U.S./Korea bilateral and Korean cross trades in the same manner, and with the same opportunities, as their Korean-owned competitors. Korean firms, on the other hand, were found to be free to operate in the United States without such barriers.

The Korean Act was also held to be, on its face, "discriminatory or unfair as between carriers, * * *" freight forwarders or others, within the meaning of the section 19 regulations at 46 CFR 585.3(d), because it precludes non-Korean-owned NVOCCs and freight forwarders from competing in the Trade on the same basis as Korean-owned NVOCCs and freight forwarders, and denies these non-Korean-owned maritime businesses effective and equal access to cargo moving in the Trade. The proposed rule therefore found that conditions unfavorable to shipping in the U.S. trade and with Korea exist as a result of that Act.

The Commission proposed to meet or adjust the resulting conditions unfavorable to shipping by suspending the license of any FMC-licensed ocean freight forwarder which is majority owned by Korean nationals, non-U.S. citizens; suspending the tariffs of 54 specifically named Korean-owned non-vessel operating common carriers (based on the presumption that NVOCCs whose tariffs reflect a principal place of business in Korea are Korean-owned); and prohibit the payment by ocean common carriers of freight forwarder compensation or

brokerage on shipments from Korea to the United States. The Commission also indicated that it would take further steps to gather and examine information necessary to specifically identify Korean-owned freight forwarders and NVOCCs (in addition to those named in appendix A to the proposed rule) prior to or simultaneously with publication of any final rule.

Interested parties were invited to file comments on the proposed rule by August 7, 1992.

Bilateral Maritime Talks

Bilateral maritime talks between the United States and the ROK were held in Washington on July 7–9, 1992. The Commission was informed by letter from Maritime Administrator Warren G. Leback, who headed the U.S. side in the talks, that "no progress was made in resolving the issues of concern to the United States." However, the consultations were resumed on August 5–6, 1992, with substantially more promising results. The Agreed Minutes of the second round of talks reflect agreement of the ROK side to:

> Take all necessary measures, including amendment of existing law, to eliminate nationality-based restrictions, so as to allow U.S. forwarding and consolidating entities to set up their own companies or operations for the conduct of direct business activities in Korea by no later than June 30, 1993.

Comments on the Proposed Rule

Comments on the proposed rule were received from eight parties, with some comments filed after the deadline for filing comments had passed.[1] Due to the timing of events which bear on the issues in this proceeding and the desirability of a full and complete record for the Commission's consideration, we have elected to accept and make a part of the record all of the comments received, regardless of their timeliness.

Comments in Support

The Korean Forwarders and Customs Brokers Association of Southern California ("KFCBA") notes that the Commission's proposed sanctions are "very much in accord" with those requested in its own petition for relief under section 19, *Petition of Korean Forwarders and Customs Brokers Association of Southern California Pursuant to section 19(1)(b) of the Merchant Marine Act of 1920 Regarding Conditions Unfavorable To Shipping In the Foreign Trade Between the United States and the Republic of Korea,* Petition No. P3–92, but suggests some minor revisions.[2] KFCBA urges that the definition of a U.S. company be expanded to include those companies owned by non-U.S. Citizens who are permanent residents of the U.S., *i.e.* "green card" holders. KFCBA indicates that this approach would be consistent with the U.S. Department of State ("DOS") regulations and the Immigration and Nationality Act, 8 U.S.C. 1101. KFCBA also suggests that the effective date of the sanctions be postponed until July 31, 1993, to provide a period of adjustment during which shippers and consignees can make alternative shipping arrangements to avoid disruption to the flow of manufactured goods, and, if the definition of a U.S. company is not changed, to allow "green card" holders to attain U.S. citizenship.

In comments filed before the resumption of talks in August, the Foreign Trade Association of Southern California ("FTA") expresses its belief that the way to solve most trade disputes is through bilateral negotiations, but notes that the ongoing bilateral negotiations on shipping issues between the U.S. and the ROK have not resulted in a resolution of the issues raised by DCL. The FTA therefore sides with DCL and concludes that the sanctions proposed by the Commission are appropriate, although it suggests some revision. Like KFCBA, FTA suggests expanding the definition of a U.S. company to include those non-U.S. citizens in the United States as permanent residents, in conformity with DOS regulations and the Immigration and Nationality Act, *supra.* FTA also suggests delaying the effective date of any final rule to January 1, 1993, to allow shippers and consignees to make alternative shipping arrangements, and to allow time for the ROK to reconsider its current position.

The Pacific Coast Council of Customs Brokers and Freight Forwarders ("PCC") supports the Proposed Rule in its present form. PCC reiterates the concern evident in its original comments in this proceeding with the proposed ROK impelled consortium, alleging that the consortium "would raise substantial dangers, violate various provisions of the Shipping Act of 1984, and run afoul of United States trade laws." PCC Comments, 2. The Commission is also urged to implement the proposed rule promptly so that its implementation can stymie the establishment of the Korean consortium. PCC "is grateful for the prompt and effective response that the Commission has made to a problem which could potentially threaten the viability of a large sector of the U.S. forwarder/broker/NVOCC industries." PCC Comments, 3.

Petitioner DCL filed comments after the close of the comment period on August 7, 1992, requesting permission to file its comments late as a result of the issuance of the Agreed Minutes of the August bilateral talks on August 6, 1992. DCL indicates that the action promised by the ROK in the Agreed Minutes "if it in fact comes to pass, should moot DCL's petition and the Docket * * *." DCL Comments, 1. DCL suggests, nevertheless, that the possibility of "the proverbial slip twixt cup and lip between now and (the projected date for completion of the ROK's commitments)" requires that the Proposed Rule be adopted as a final rule. DCL proposes, however, that the effective date of the "substantive portions" of the rule be suspended until June 30, 1993 or such earlier date as the Commission may determine if it appears that ROK action on its commitments may not occur or may be delayed. DCL also requests that the information-gathering and ownership-determination elements of the rule be implemented currently, so that substantive implementation may occur without further delay.

Further, DCL asks that periodic progress reports on the steps being taken by the ROK to implement its commitments in the Agreed Minutes be required from parties to be determined by the Commission—preferably, DCL indicates, the two Korean national-flag carriers, Hanjin Shipping Co. Ltd. ("Hanjin") and Hyundai Merchant Marine Co. ("Hyundai"). Although these carriers are not the targets of the proposed sanctions, DCL acknowledges, they are the parties most likely to have ties to the ROK and are not unaccustomed to such reporting requirements. DCL also urges that these carriers are likely to have ongoing reporting responsibilities imposed in connection with the parallel Commission proceeding on carrier-related issues in Korea. In the alternative, DCL urges that the incipient Korean consortium ("known colloquially as 'Korea, Inc. (U.S.A.)' ") be required to file such reports. DCL Comments, 3.

[1] Several comments were obviously prepared and filed before the second round of talks. Others, however, reflect the outcome of those talks.

[2] That petition, filed on June 12, 1992, sought Commission action in connection with alleged activities by the Korean Government and Korean companies to establish a consortium to undertake U.S. operations as a freight forwarder, customshouse broker and NVOCC. The FMC's Notice of the filing of that petition in the Federal Register 57 FR 29510 (July 2, 1992), stated that action on the petition would be premature because the consortium was not yet seeking to operate, the issues it raised might be resolved in the bilateral talks, and FMC action would be held in abeyance.

DCL notes the concern of several commenters that companies owned by Korean citizens who are U.S. permanent residents would be adversely affected by the proposed rule. DCL expresses sympathy with such individuals who operate only U.S. based companies, but points out that such individuals may operate companies in Korea with impunity under the existing Korean Maritime Transportation Business Act, without the knowledge of the Commission. DCL suggests, therefore, that the proposed rule's coverage of all licensed freight forwarders and NVOCCs owned by Korean citizens, without regard to "green card" status, be maintained.

The National Customs Brokers and Forwarders Association of America, Inc. ("NCBFAA") filed a Motion for Leave to Late File a Reply, as well as its Reply to comments, on August 24, 1992. In response to DCL's suggestion that implementation of any final rule be delayed until June 30, 1993, NCBFAA opposes any delay in implementation and supports immediate imposition of the proposed sanctions. NCBFAA characterizes the ROK commitments in the August 5–6 talks as an "unenforceable 'promise' " and "another example of the ROK's attempt to stall for time * * *." NCBFAA, in short, doubts that the ROK commitments will be fulfilled and requests immediate FMC action in accord with that view.

NCBFAA also asks that the Commission, despite an acknowledged absence of "hard data," act on the ROK impelled consortium by instituting an investigation to determine whether the venture is going forward. NCBFAA fears that in delaying action on the consortium, the Commission may be unable to "unscramble the eggs" if the consortium succeeds in acquiring hidden ownership of existing businesses. NCBFAA suggests that the Commission proceed by imposing a reporting requirement on each of the Korean-owned freight forwarders which would be affected by the Rule as proposed, as well as on the "Korean-owned consortium known as 'Korea, Inc.' " and the two Korean national-flag carriers. NCBFAA suggests that the Commission inquire as to:

(1) Whether they have financial ties to the Korea, Inc. venture;

(2) Whether they have acquired or otherwise control any entity that currently has an ocean freight forwarder or customshouse broker license; and

(3) Whether they have any other arrangements, formal or informal, with companies holding ocean freight forwarder or customshouse broker licenses.

Comments in Opposition

Hanjin comments that the proposed sanctions are "an extreme and disproportionate reaction to a single complaint, * * * (which) unfairly affect vessel operators and others in the trade who do not benefit from the laws about which DCL complains." Hanjin Comments, 2. It urges the Commission to proceed with restraint. Noting that the ROK has agreed to take all necessary measures to allow U.S. forwarding and consolidating companies to operate in Korea, Hanjin suggests that the sanctions are "unnecessary and inappropriate." *Id.* Thus, Hanjin notes, "it appears that the FMC's proposal has already had its intended effect * * * ." *Id.*, 3.

In comments filed with a Request for Leave to File Supplemental Comments on September 8, 1992, Hanjin further objects to the suggestions of DCL and NCBFAA that the Commission impose reporting requirements on Hanjin and Hyundai, also noting that these commenters overlook the presence of another Korean-flag carrier in the Trade, Cho Yang Line. In addition, Hanjin opposes NCBFAA's attempts to broaden this proceeding to deal with the issues related to the Korean consortium, and to subject the Korean-flag carriers to a requirement to report to the Commission on those issues.

Attorney Charles R. Gryll, who indicates that he represents many clients of Korean background, filed comments in opposition to the proposed rule. Gryll suggests that the attempt to distinguish between Korean nationals subject to the sanctions, many of whom are permanent residents of the U.S., and U.S. citizens of Korean origin, who would not be subject to the sanctions, will be unavailing and the impact of the Rule will unjustly fall on all those of Korean extraction in the shipping business. Korean businesses in the U.S. are allegedly unable to influence the policies of the Korean Government and "(f)ormal FMC proceedings cannot be used as a sword against the government of Korea." Comments of Charles R. Gryll, Ltd. Gryll believes that bilateral negotiations between governments are the appropriate means to rectify discriminatory practices.

The Korean International Freight Forwarders Association ("KIFFA") states that the ROK agreed in bilateral shipping talks held on July 7–9, 1992 to institute changes in Korean law to permit U.S. forwarders and consolidators to conduct direct business operations in Korea by next year. KIFFA suggests, moreover, that the ROK's allowance of foreign ownership up to 49 percent in forwarding and similar businesses is already a more lenient practice than those in place for other business sectors in Korea. Finally, KIFFA requests that the Commission withdraw the intended sanctions.

In "Reply Comments" filed on September 15, 1992, KIFFA seeks to inform the Commission of "recent events" which "have provided additional evidence that any such Commission action (as the Proposed Rule) would be inappropriate and unwarranted." KIFFA Reply Comments, 1. Specifically, KIFFA states that the ROK has begun the efforts necessary to meet its August commitments, including an open hearing by the Korea Maritime and Ports Administration ("KMPA") on amendments to the shipping law to permit non-Korean forwarders and NVOCCS to directly conduct business in Korea. KIFFA reports as well that KMPA has prepared a draft of amendments to the shipping law which has been forwarded to the Ministry of Transport for review. KIFFA concludes that it would be inappropriate "for the Commission to discount the commitments made by the Korean government and fail to provide the opportunity for their fulfillment." KIFFA Reply Comments, 2.

In late-filed comments Hyundai takes exception to DCL's suggestion that Hyundai and Hanjin be required to file periodic reports on the progress of the ROK in meeting its commitments. Hyundai, characterizing DCL's proposed reporting requirement as "burdensome sanctions," also objects to DCL's conclusory statement that the Korean-flag carriers have identifiable ties to the ROK and its presumption that similar reporting requirements will be imposed on the carriers in the parallel FMC docketed proceeding on Korea. Hyundai asks the Commission to accept its Reply Comments and make them a part of the record in this proceeding so that it does not appear to have acquiesced in DCL's proposal.

Discussion

As noted above, the Commission has elected to accept comments filed out of time in this proceeding, due to the occurrence of events significantly affecting the issues under consideration; *i.e.* the bilateral maritime talks held in August.[3] An unavoidable consequence

[3] The Petition for Leave to Late File the reply of NCBFAA, and the Requests for Leave to File Reply Comments and Supplemental Comments of, respectively, Hyundai and Hanjin are, therefore, granted. DCL's Comments in Response to United States/Korean "Agreed Minutes" of August 6, 1992

Continued

in this case is that some, but not all, parties have had an opportunity to reply to comments previously filed, which would ordinarily be precluded by the simultaneous filing of comments in a rulemaking proceeding. We prefer to accept all comments filed in the interest of acknowledging the existence of and reaction to late-occurring events, and will not therefore reject these comments as suggested by several parties.

Several commenters link this proceeding to the expected ROK-impelled creation of a consortium of shipping and other trade-involved firms to operate a U.S.-based firm. Although the Commission noted in the Proposed Rule that the widely expected creation and operation of such an enterprise highlights the discriminatory nature of the restrictive practices complained of by DCL, this proceeding was specifically instituted to deal with the conditions affecting U.S. firms in Korea which result from Korean law. The comments addressing "Korea, Inc." would divert this proceeding to other issues and purposes. The position expressed by the Commission in the Notice on Petition No. P3–92, that the consortium is still a pending operation which may more appropriately be dealt with if and when it seeks operating authority from the appropriate U.S. Government agencies, *e.g.* through tariff filing or application for a freight forwarder license, remains valid.[4] Despite recent press reports, there is nothing concrete before us with respect to the consortium on which the Commission could act. Therefore, despite this attempt to link these proceedings, and without dealing with the merits of the issues with respect to the consortium raised by these commenters, we reiterate our conclusion that the issues involving the consortium are anticipatory and speculative, and that action at this time would be premature.

With the exception of those comments prepared before the bilateral talks resumed in August, most commenters appear to have concluded that the concessions made by the ROK in those talks have materially changed the outlook for conditions in the Trade and the likelihood that sanctions will be necessary. While the Petitioner expresses the belief that action by the Korean Government to fully implement the commitments made in those talks will render its Petition moot, that conclusion is modified by the caveat "if it in fact comes to pass." DCL Comments, 1.

Several commenters, including DCL, recognize that conditions unfavorable to shipping exist and commend the Commission for its action in publishing the Proposed Rule, but recommend that sanctions not be made effective now.[5] These commenters also suggest that the Commission revise the proposed sanctions so that businesses owned and operated by Korean nationals who are permanent residents of the United States would not be affected.[6]

In response to this latter suggestion, DCL notes that such persons may lawfully conduct business operations as Korean nationals in Korea which benefit from the protectionist law that excludes such operations by U.S.-owned firms. DCL thus argues that the effects of the sanctions should not be narrowed and that the "integrity" of the rule as proposed should be maintained. DCL Comments, 2. n.2.

DCL's approach to this issue has merit. It would be difficult, if not impossible, for the Commission to identify and differentiate those firms which are Korean-based and Korean-owned, although they have U.S. offices, from those which are owned by Korean citizens who are permanent residents of the U.S., without involving itself in matters not within its expertise. It is not for this agency to determine whether an affected person, subject to the suspension or revocation of a freight forwarder's license or tariff, has been "lawfully" admitted as a permanent resident of the U.S.

The only exception to the general view that sanctions are not necessary at this time is NCBFAA. NCBFAA doubts the intention of the ROK to implement the changes in ROK law necessary to permit direct operation of U.S. companies in Korea. The later-filed reply comments of KIFFA, however, indicate that action to implement those commitments is being undertaken.

In issuing the proposed rule, we noted that further proceedings would be necessary prior to entry of any final rule, and indicated that any resolution of the issue of NVOCC and freight forwarder direct business operations in the ROK which might emerge from the then-pending bilateral talks would be taken into consideration by the Commission in the course of this proceeding. Those talks have, in fact, resulted in the assurance that these issues of access by NVOCCs and freight forwarders to the Trade will be substantially resolved by ROK action.

Nevertheless, we are urged by the commenting parties most directly and adversely affected by the Korean Act to adopt the proposed rule as a final rule, including the proposed sanctions, in order to retain the greatest capacity possible to respond promptly and appropriately to any delay or avoidance of the promised reforms. We are pleased with the progress made to date toward resolution of the problems in the Trade and hopeful that they will be fully resolved as a result of the recent ROK undertakings. However, we are also mindful of the unfortunate history of delayed or unfulfilled undertakings by the ROK which has transpired with respect to trucking issues and other land-side operations of vessel operating common carriers. The Commission is determined to avoid repetition of that history in this proceeding.

We are therefore adopting the proposed rule as a final rule herein, as suggested by DCL and others. As also suggested by DCL and others, however, the Commission is at the same time delaying the effective date of the sections establishing sanctions until after the June 30, 1993 date by which the ROK has committed itself to have accomplished the changes necessary to permit direct operations by U.S. freight forwarders and NVOCCs. Should the reforms be successfully completed so that operations by U.S. companies as freight forwarders and NVOCCs from Korea may be established, the Commission will, of course, withdraw the final rule. However, we remain prepared to implement the sanctions at an earlier date should it appear necessary or appropriate. The sanctions included in the final rule will be made effective promptly upon the request of

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included a request for permission to file them out of time, which is granted. KIFFA's Reply Comments, submitted without a request for leave to file out of time, are also made a part of the record.

[4] The Commission's Notice of the filing of that petition, 57 FR 29510 (July 2, 1992), indicated that

(i)n view of the pending talks, which Petitioner believes may address the issues it raises, and the indications that the consortium is still an operation more on the drawing board than in reality, the Commission will hold in abeyance any further action on the Petition.

[5] The commenters other than DCL, however, make this proposal in order to provide a period during which U.S. exporters and importers can shift their business to operations which will not be affected by any final rule, rather than as recognition that the ROK commitments may obviate the need for sanctions. This may be due to the timely filing of these comments, before the August talks were concluded.

[6] Cited is the Immigration and Nationality Act, 8 U.S.C. 1101, which defines at section 1101 (a)(20) the term "lawfully admitted for permanent residence" as

the status of having been lawfully accorded the privilege of residing permanently in the United States as an immigrant in accordance with the immigration laws, such status not having changed.

These commenters also cite DOS regulations at 22 CFR 120.23, which defines a "U.S. person" as including one who "has been lawfully admitted to the United States for permanent residence (and maintains such a residence) under the Immigration and Nationality Act, 8 U.S.C. 1101 * * *"

any interested persons, if warranted, or notification by the U.S. side that progress in meeting those commitments has not or will not occur as contemplated.

The final rule will create for Korean firms, which are the beneficiaries of the Korean Act's protection from competition from U.S. and other non-Korean firms, conditions which mirror the detrimental effects of those provisions. Firms owned by U.S. citizens are prohibited from doing business in Korea as freight forwarders on shipments from Korea to the U.S., thus depriving them of the opportunity to earn freight forwarder compensation and other revenue in connection with such shipments, and to compete in the Trade on the same basis as other firms offering to perform the same services. The final rule addresses this condition by prohibiting common carriers from paying freight forwarder compensation to Korean firms acting as freight forwarders, consolidators, freight brokers or other transportation intermediaries who provide services that facilitate arrangements between shipper and carrier incidental to the ocean transportation on bills of lading for shipments from Korea to the United States, whether directly or by transshipment.

Firms owned by U.S. citizens report that they are detrimentally affected by the Korean Act because they are unable to establish contacts with shippers in Korea which might produce business in the U.S. export trade. Korean freight forwarders, however, face no similar barriers to establishing operations in both countries. The final rule therefore provides that, upon notice to individual freight forwarders to be made upon later publication, the Commission will suspend the ocean freight forwarder license presently held by, and will deny the pending or future application for an ocean freight forwarder license of, any firm which is majority-owned or controlled by citizens of the Republic of Korea.

The sanctions specified at §§ 586.4(b), (c) and (d) of the final rule dealing with NVOCC tariffs, freight forwarder licenses and freight forwarder compensation, respectively, will become effective on September 1, 1993 unless the Commission acts in the interim to withdraw the rule or establish some other effective date.

DCL further suggests that the Commission proceed with the "information-gathering and ownership-determination elements of the rule * * * so that the Commission is in a position to implement the rules substantively * * * without further procedural delay * * *" should that course of action be necessary. DCL Comments, 3. The elements of the proposed rule to which DCL refers are those which involve action by the Commission to determine, from an examination of its freight forwarder files, those licensees which would be subject to the sanctions proposed and to seek information from NVOCCs with tariffs on file which would accurately reflect the nationality of their ownership.

The Commission indicated in the Proposed Rule that it would,

> in conjunction with any final rule issue in this proceeding, issue orders pursuant to section 19 (6) of the Merchant Marine Act, 1920, 46 U.S.C. app. section 876(6), directing NVOCCs to provide information which would allow the Commission to identify those which are more than 50% owned by citizens of Korea or otherwise controlled by such citizens. NVOCCs so identified would then have their tariffs suspended.[7]

With respect to freight forwarders, the Commission advised that it would

> upon notice to individual freight forwarders to be made upon publication of the final rule, * * * suspend the ocean freight forwarder license presently held by, and * * * deny the pending or future application for an ocean freight forwarder license of, any firm which is majority-owned or controlled by citizens of the Republic of Korea.
>
> * * * * *
>
> Each such licensee or applicant will be notified by publication in the **Federal Register** of Appendix B (Appendix B to be published in the final rule) and by certified mail of the Commission's intent to suspend its license or deny its application and may submit a written request for a hearing on the proposed suspension or denial within twenty (20) days after receipt of the notification * * *.

The Commission further stated that the identification of freight forwarders and applicants to be included in appendix B would be based on an examination of information as to ownership available in Commission files, such as information required to be filed pursuant to the Commission's rules at 46 CFR 510.12(e) and 510.19 and the Application for License as an Ocean Freight Forwarder, Form FMC–18.

These information-gathering activities would be time consuming and entail a significant dedication of FMC resources at a time when budgetary constraints make it particularly necessary for the Commission to avoid activities which are not immediately required. In addition, the Commission's intention to require the filing of ownership information by freight forwarders and NVOCCs, announced in the Proposed Rule, might unnecessarily burden many small businesses at this time.

Given the above concerns and the commitments made in the Agreed Minutes of the August talks, we do not plan to undertake information-gathering and retrieval tasks at this time. The Commission will, therefore, delay these undertakings unless and until it becomes apparent that it will be necessary to implement the sanctions established in the final rule. The Commission will, of course, give adequate notice to parties subject to such information demands prior to the effective date of any applicable sanctions.

Finally, with respect to the suggestions of DCL and NCBFAA that the Commission establish periodic reporting requirements to obtain information concerning developments in Korea, we share the view of Hyundai and Hanjin that it would not be appropriate to subject these Korean-flag carriers to such a requirement in this proceeding. Other interested parties appear to be too numerous to be reasonably subjected to such requirements and, moreover, do not appear to us to be in any better position than the Korean-flag carriers to inform the Commission of such developments on a regular basis.

We note, however, that the Agreed Minutes of the August 5–6, 1992 bilateral talks provide, in part, that the U.S. and the ROK "will consult closely as these steps are carried out." It would appear, therefore, that the Korean Government will keep the Maritime Administrator informed of events as they occur. Therefore, the Commission will ask the Maritime Administrator to keep us currently informed of progress made in achieving the results expected of the talks.

In addition, we are requesting that interested parties file comments on or before July 31, 1993, *i.e.* 30 days following the date on which the ROK has indicated that legislative and other reforms necessary to permit direct business operations by U.S. firms in Korea will be completed. The September 1, 1993 date for effectiveness of the sanctions will permit interested parties to file and the Commission to consider such comments and take any appropriate action prior to the effective date. Should events so warrant, interested parties may inform the Commission of their concerns and

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[7] Based on a specific determination that firms whose principal offices are in Korea may be presumed to be Korean-owned or controlled, the Commission also proposed to suspend the tariffs of 54 NVOCCs named in appendix A to the proposed rule. This provision, including appendix A, is adopted in the final rule but will not become effective until September 1, 1993, unless the Commission acts hereafter to establish some other effective date. 46 CFR 586.4(b)(2), 57 FR 30182 (July 8, 1992).

comments at any time, by petition for specific action or filing of additional comments herein. Therefore, no need appears for more structured or specifically directed reporting requirements in this proceeding.

Conclusion

The Commission finds, pursuant to section 19 of the Merchant Marine Act, 1920 and its regulations at 46 CFR and 585.3 (a), (b), (c), and (d), that conditions unfavorable to shipping exist in the foreign oceanborne trades between the United States and Korea, as alleged in DCL's Petition. As a direct result of Korean laws, regulations, policies and practices, conditions exist which: (1) Preclude or tend to preclude non-Korean non-vessel-operating common carriers and freight forwarders from competing in the Trade on the same basis as Korean non-vessel-operating common carriers and freight forwarders; (2) deny non-vessel-operating common carriers and freight forwarders owned and operated by non-Korean nationals equal and effective access to cargo moving from Korea to the United States; (3) discriminate between non-vessel-operating common carriers and freight forwarders owned and operated by Korean nationals and non-vessel-operating common carriers and freight forwarders owned and operated by non-Korean nationals; and (4) are otherwise unfavorable to shipping in the foreign trade of the United States.

Therefore, pursuant to section 19 of the Merchant Marine Act, 1920, as amended, and the Commission's regulations at 46 CFR part 585, the Commission hereby issues a final rule to address the existence of unfavorable shipping conditions in the foreign oceanborne trade between the United States and Korea and prescribes an appropriate remedy or remedies to adjust or meet those conditions.

In reliance on the commitments undertaken by the ROK in bilateral talks held in Washington, DC on August 5 and 6, 1992, however, the sections of this rule prescribing actions to meet or adjust the unfavorable conditions found will not be made effective before September 1, 1993, unless such effectiveness appears appropriate and further action by the Commission is warranted. Interested parties may file information and comments seeking such action at any time. However, interested parties are specifically invited to comment on the conditions existing in the Trade, remedial actions effected by the ROK Government, and the continuing need for the sanctions promulgated by the Commission on or before July 31, 1993.

The comments on the Proposed Rule are hereby made a part of the record in this proceeding. The Petition for Leave to Late File of NCBFAA; the Requests for Leave to File Reply Comments and Supplemental Comments of, respectively, Hyundai and Hanjin; and DCL's request for permission to file its comments out of time are granted.

List of Subjects in 46 CFR Part 586

Cargo vessels; Exports; Foreign relations; Imports; Maritime carriers; Penalties; Rates and fares; Tariffs.

Therefore, pursuant to section 19(1)(b) of the Merchant Marine Act, 1920, 46 U.S.C. app. 876(1)(b), as amended, Reorganization Plan No. 7 of 1961, 75 Stat. 840, and 46 CFR part 585, part 586 of Title 46 of the Code of Federal Regulations is amended as follows:

1. The authority citation for part 586 is revised to read as follows:

Authority: 46 U.S.C. app. 876(1)(b); 46 U.S.C. app. 876(5) through (12); 46 CFR Part 585; Reorganization Plan No. 7 of 1961; 26 FR 7315 (August 2, 1961).

2. A new § 586.4 is added to read as follows:

§ 586.4 Conditions unfavorable to shipping in the United States/Korea Trade ("Trade")—Maritime-related Services.

(a) *Conditions unfavorable to shipping in the trade.* (1) The Federal Maritime Commission has determined that the Government of Korea ("ROK") has created conditions unfavorable to shipping in the foreign trade of the United States by enacting, implementing and enforcing laws and regulations which unreasonably restrict non-Korean citizens and companies from competing as freight forwarders or non-vessel-operating common carriers to participate in the carriage of general import and export cargoes, in the trade between the United States and Korea on the same basis as Korean citizens and firms owned by Korean citizens.

(2) Korean law unilaterally prohibits the participation of non-Korean citizens and firms owned by non-Korean citizens from operating as freight forwarders, or non-vessel-operating common carriers or other shoreside maritime transportation businesses in the import and export of general cargoes between the United States and Korea. The enforcement of this system discriminates against U.S. maritime companies desirous of participating in the Trade through the operation of businesses in Korea and denies to these transportation firms effective and equal access to import and export general cargoes in the Trade. It also discriminates against shippers whose opportunities to employ these entities and to select a carrier of their choice as restricted and whose ability to compete in international markets is hampered.

(b) *Korean non-vessel-operating common carriers—suspension of tariffs.* (1) Each non-vessel-operating common carrier whose tariff or anti-rebate certification on file with the Federal Maritime Commission reflects as its principal place of business a place in Korea, named in appendix A of this section, is hereby presumed to be a Korean-owned or controlled non-vessel-operating common carrier.

(2) The tariff of each non-vessel-operating common carrier named in appendix A of this section is hereby suspended until further action of the Federal Maritime Commission to terminate the suspension.

(c) *Korean freight forwarders—suspension or revocation of licenses.* (1) Pursuant to section 19(1)(b) of the Merchant Marine Act, 1920, 46 U.S.C. app. 876(1)(b), any holder of an ocean freight forwarder license issued by the Federal Maritime Commission pursuant to the Shipping Act of 1984, 46 U.S.C. 1718, and any applicant for such a license, in which a majority interest is held by non-U.S. citizen Korean nationals, is hereby deemed to be ineligible to render forwarding services in the same manner that non-Korean nationals are deemed by the Korean Maritime Business Act to be ineligible to own or operate as freight forwarders in the Republic of Korea.

(2) Any ocean freight forwarder holding a license pursuant to the Shipping Act of 1984, 46 U.S.C. app. 1718, and 46 CFR part 510, and any applicant for such a license, which appears to be owned or controlled by non-U.S. citizen Korean nationals, listed in appendix B of this section (Appendix B to be published at least 30 days prior to the effective date of this section) will be notified by certified mail, return receipt requested, that its license will be suspended until further notice, or, in the case of an applicant, that its application will be denied, unless it is able to show that it is not and was not on July 8, 1992, the date of publication of this Rule as a Proposed Rule, owned or controlled by non-U.S. citizen Korean-nationals, or that any change in ownership after that date was not made to avoid the consequences of this rule.

(3) Each such notice shall be served on the individual licensee or applicant at its last known business address and shall include notification of the opportunity to request a hearing on the suspension or denial of a license within 20 days from the receipt of such

notification pursuant to the Commission's Rules at 46 CFR 510.15 or 510.16 and the Rules of Practice and Procedure at 46 CFR Part 502. Failure to respond to such notice shall be deemed to constitute admission that the respondent licensee or applicant is owned or controlled by non-U.S. citizen Korean nationals, and the licensee or applicant shall be notified by Federal Register publication and certified mail, return receipt requested that its license has been suspended, or its application denied.

(4) Each request for a hearing must be accompanied by a statement of the specific basis on which the Commission's determination of Korean ownership or control of the licensee or applicant is challenged.

(d) *Ocean common carriers—prohibition of payment of freight forwarder compensation or brokerage.*

(1) Notwithstanding any provisions in its tariff or tariffs in which it participates to the contrary, each common carrier operating in the U.S. foreign trade with Korea is prohibited from making freight forwarder compensation, brokerage or other payments to freight forwarders, consolidators, cargo brokers or other transportation intermediaries who provide services that facilitate arrangements between shipper and carrier incidental to the ocean transportation on export shipments from Korea to the United States.

(2) Notwithstanding any provisions in its tariff or tariffs in which it participates to the contrary, each common carrier operating in the U.S. foreign trade with Korea is prohibited from paying freight forwarder compensation to any ocean freight forwarder which has been notified by the Commission that its license is subject to suspension pursuant to this Rule and whose name appears in appendix B of this section [appendix B to be published at least 30 days prior to the effective date of this section].

(e) *Effective Date.* This section is effective on [insert date 30 days from publication of this rule in the Federal Register], except that sections 586.4 (b), (c), and (d) are effective September 1, 1993.

Appendix A to § 586.4—Korean Non-Vessel Operating Common Carriers

1. Auto-Multimodal Express Line Inc., DBA/ Amex Line Inc., 18th Fl., Jeil Bldg., 31–1 2–KA, Myung Dong, Chung-Ku, Seoul, Republic of Korea
2. Bogo Shipping Co., Ltd., Bogo Bldg. 988–15, Daechi-Dong, Kangnam-Ku, Seoul, Republic of Korea
3. Bonex Shipping Corporation, DBA/Bonex Line, Rm. 1503, Sam Koo Bldg., 70 Sokong-Dong, Chung-Ku, Seoul, Republic of Korea
4. Bum Han Shipping Co., Ltd., 24th floor International Insurance Bldg., 120 5–KA Namdaemunuro, Chung-Ku, Seoul, Republic of Korea
5. Daeil Shipping Co., Ltd., Soon Hwa Bldg., Suite 1501, #5–2 Soon Hwa-Dong, Choong-Ku, Seoul 110–030, Republic of Korea
6. Daeyoo Shipping Co., Ltd., Rm. 504 Mocksan Bldg. #156, Joekseon-Dong, Jongro-Ku, Seoul, Republic of Korea
7. Dong Joo Int'l Shipping Co., Ltd., Rm. 1210, Marine Center Bldg., 118, 2–KA, Namdaemoon-Ro, Chung-Ku, Seoul, Republic of Korea
8. Dong Shin Shipping Co., Ltd., International Insurance Bldg., #120, 5–KA Namdaemun-Ro Chunk-Ku, Seoul, Republic of Korea
9. Doo Ran Shipping Co., Ltd., Rm. 905, Sam Jung Bldg. 69–5, 2–GA, Taepyung-Ro, Chung-Ku, Seoul, Republic of Korea
10. Eastern Van Express Co., Ltd., 16th Kyungki Bldg., 115 Samkag-Dong, Chung-Ku, Seoul 100–200, Republic of Korea
11. Express Cargo Service Co., Ltd., 602 Rm, Korea YWCA 1–3 1-KA, Myung-Dong, Chung-Ku, Seoul, Republic of Korea
12. First Express International, 394–44, Seo-Gyo-Dong, Mapo-Ku, Seoul, Republic of Korea
13. Glory Shipping Co., Ltd., Jangkyo Bldg., #1703, 1, Jangkyo-Dong, Choong-Ku, Seoul, Republic of Korea
14. Goldmarine Co., Ltd., 3rd Fl, Tae Rim Bldg., 85–13, 4–KA, Chungang-Dong, Chung-Ku, Busan, Republic of Korea
15. Gyro Shipping Co., Ltd., IL–JIN Bldg., Room 302, #85–11, 4–KA, Chungang-Dong, Chung-Ku, Busan, Republic of Korea
16. Haewoo Air & Shipping Co., Ltd., Fl. 7, Taepyung Bldg. 69–20, Taepyung-Ro, 2–Ka, Choong-Ku, Seoul, Republic of Korea
17. Hanjoo Shipping Int'l Co., Ltd., DBA/ Hanex Line, 18, 1–KA, Nandaemoon-Ro, Chung-Ku, Seoul, Republic of Korea
18. Hero Shipping Co., Ltd., Rm 901, Taepyung Bldg., 69–20, 2–KA, Taepyung-Ro, Seoul, Republic of Korea
19. Kana Shipping Co., Ltd., Rm #901, Paik Nam Bldg., 188–3, 1–KA, Euljiro, Chung Ku Seoul, Republic of Korea
20. Kenney Transport (Korea), Ltd., Mapo Changkang Bldg., 18–1, Dohwa-Dong, Mapo-Ku, Seoul, Republic of Korea
21. Kheeryoong Commerce & Transport Co., Ltd., 25–5, 1–KA, Chungmu-Ro, Chung-Ku, Seoul, Republic of Korea
22. Korea Express Corp., Suite #301, Han-Kwang Bldg., 82–1 4–KA, Jungang-Dong, Jung-Ku, Busan, Republic of Korea
23. Korea Intermodal Transport Co., Ltd., 15th Fl, Marine Center Bldg., #118, 2–KA Namdaemun-Ro, Chung-Ku, Seoul 100-770, Republic of Korea
24. Korea Logistics Systems Inc., 12th Fl., Jung Suck Bldg., 89–14, 4–KA, Chungang-Dong, Chung-Ku, Busan, Republic of Korea
25. Korea Marine Transport Co., Ltd., 15th Fl., Marine Center Bldg. #118, 2–KA, Namdaemun-Ro, Chung-KU, Seoul, Republic of Korea
26. Kunyoung Shipping Co., Ltd., Taeyang B/ D 3F, 158–25 Dongkyo-Dong, Mapo-Gu, Seoul, Republic of Korea
27. Masters World Trans Co. Ltd., DBA/ Masters Container Line, Rm 810, Il Jin Bldg., 50–1 Dowha-Dong, Mapo-Ku, Seoul, Republic of Korea
28. Nama Air Cargo & Shipping Co., Ltd., Jinhak Bldg., 201–1 Chungjin Dong, Jongro-Ku, Seoul 110–130, Republic of Korea
29. New World Shipping Co., Ltd., 17–7, 4–KA Namdaemoon-Ro Choong-Ku, Seoul, Republic of Korea
30. Orient Express Container (Korea) Ltd., 168–4 Dongkyo-Dong Mapo-Ku, Seoul, Republic of Korea
31. Orient Express Ltd., Rm 1102, Jeil Bldg., 31–1 2–KA, Myung-Dong, Chung-Ku, Seoul, Republic of Korea
32. Orion Express Line, 3rd Fl., Sujin Bldg., 167–1 Dangju-Dong, Chongro-Ku, Seoul 110–071, Republic of Korea
33. Pan Asia Maritime Inc., Room 301, New Seoul Bldg., 62–7 2–KA, Chungmu-Ro, Chung-Ku, Seoul, Republic of Korea
34. Pan Trans International Freight Service Co., L, Rm #602 Bokchang Bldg., 80 Sokong-Dong Chung-Ku, Seoul, Republic of Korea
35. Prime Consolidation Limited, Rm 905, Sun Shine Bldg., 11–1 2–GA, Choongmu-Ro Chung-Ku, C.P.O. Box 7125, Seoul, Republic of Korea
36. Pum Yang Shipping Co., Ltd., 4th floor, Soon Hwa Bldg., 5–2 Soon Hwa Dong, Choong-Ku, Seoul, Republic of Korea
37. Pusan Shipping Co., Ltd., 6th floor KCCI Building, 4–45 Namdaemun-Ro, Jung-Ku, Seoul, Republic of Korea
38. Regent Express Korea Inc., Rm 1405, Sam Yoon B/D 63–2 2nd Street, Chungmu-Ru, Chung-Ku, Seoul, Republic of Korea
39. Sea-Road Trans Corporation, DBA/Sea-Road International, 7th Floor, Paik Nam Bldg. 188–3, 1–GA, Euljiro Choong-Ku, Seoul, Republic of Korea
40. Seil Shipping Co., Ltd., 51–1 Namchang-Dong, Chung-Ku, Seoul 100–060, Republic of Korea
41. Selim Shipping Co., Ltd., Rm. 703, Youdong Bldg., 546, Dohwa-Dong, Mapo-Ku, Seoul, Republic of Korea
42. Shinwoo Shipping Inc., Rm #401, Sam Yang Bldg., 85–8, 4–KA Jungang-Dong, Jung-Ku, Busan, Republic of Korea
43. Ssangyong Shipping Co., Ltd., 60–1, 3–GA, Chungmu-Ro, Jung-Gu, Seoul 100–175, Republic of Korea
44. Sun Express Corporation, 780–1, 5–KA, Namdaemoon-Ro, Jung-Ku, Seoul, Republic of Korea
45. Sungwoo Shipping Co., Ltd., 2nd Fl., Samheung Bldg, 10–4 Bukchang-Dong Chung-Ku, Seoul 100–080, Republic of Korea
46. Sunjin Shipping & Air Cargo Co., Ltd., 80 Chokson-Dong (Hyundai Cheil Bldg.), Chongro-Ku Seoul, Republic of Korea

47. Tae Jung Express Co., Ltd., Room No. 521 Baejae Building, 55–4 Seosomoon-Dong Chung-Ku, Seoul, Republic of Korea
48. Uni-Sea & Air Freight Co., Ltd., Rm #405 Eui Lim Bldg., 16–48, 3–GA, Hangkang-Ro, Yongsan-Gu, Seoul, Republic of Korea
49. Union Express, Ltd., 392–33, Sokyo-Dong, Mapo-Ku Seoul, Republic of Korea
50. Vantrans Service Inc., 2nd Fl., Hae Yang Bldg., 87–5, 4 KA Chungang-Dong, Chung-Ku, Seoul, Republic of Korea
51. Woo Shin International Transport Co., Ltd., 9th Floor Royal Bldg. 5., Dangju-Dong Chongro-Gu, Seoul, Republic of Korea
52. World Trans Corporation, Rm 1803–5 Samjung Bldg., 69–5, 2–KA Taepyung-Ro, Chung-Ku, C.P.O. Box 7197 Seoul, Republic of Korea
53. Worldstar Shipping & Trading Co., Ltd., DBA/Worldstar Shipping Co. Ltd., Namdo Bldg. 1 fl., Kwanhoon-Dong, Chongno-Ku, Seoul, Republic of Korea
54. Ykl Express Limited, 18 fl, Byucksan, 125 Bldg., 12–5 Dongja-Dong, Yongsan-Gu, Seoul, Republic of Korea.

By the Commission.

Ronald D. Murphy,

Assistant Secretary.

[FR Doc. 92–27889 Filed 11–17–92; 8:45 am]

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46 CFR PART 586

[Docket No. 91–24]

Actions to Adjust or Meet Conditions Unfavorable to Shipping in the United States/Korea Trade

AGENCY: Federal Maritime Commission.

ACTION: Final rule.

SUMMARY: The Federal Maritime Commission is imposing fees on Korean-flag vessels calling at United States ports in response to unfavorable conditions found to exist in the oceanborne trade between the United States and Korea. The unfavorable conditions result from restrictions which continue to be imposed by the Government of Korea and which preclude U.S. carriers in the trade from engaging in trucking activities in Korea. In light of recent commitments by the Government of Korea to eliminate or adjust these restrictions, the sanctions imposed by the Commission will be suspended until June 1, 1994, during which time the Commission will periodically review the need for such sanctions in light of progress achieved in implementing the commitments. A schedule for periodic reporting by the affected carriers is also prescribed, in order to apprise the Commission of ongoing developments. The effect of the rule will be to adjust or meet unfavorable conditions created by those laws and regulations by imposing countervailing burdens on the Korean-flag carriers.

DATES: Sections 586.5(a) and (f) effective December 18, 1992; sections 586.5 (b), (c), (d) and (e) effective June 1, 1994. Reports due December 15, 1992; May 1, 1993; November 1, 1993; and May 1, 1994.

ADDRESSES: Reports to be submitted to: Joseph C. Polking, Secretary, Federal Maritime Commission, 800 North Capitol St., NW., Washington, DC 20573, (202) 523–5725.

FOR FURTHER INFORMATION CONTACT: Robert D. Bourgoin, General Counsel, Federal Maritime Commission, 800 North Capitol St., NW., Washington, DC 20573, (202) 523–5740.

SUPPLEMENTARY INFORMATION:

The Proposed Rule and Subsequent Developments

This proceeding under section 19(1)(b) of the Merchant Marine Act, 1920, 46 U.S.C. app. 876(1)(b) ("Section 19"), was initiated on June 7, 1991 (56 FR 26361), by notice of proposed rulemaking ("proposed rule"). The proposed rule was based on information received by the Commission over a period of time in response to information demand orders issued under section 10002(d) of the Foreign Shipping Practices Act of 1988, 46 U.S.C. app. 1710a, and section 15 of the Shipping Act of 1984, 46 U.S.C. app. 1714. The Commission proposed to assess a fee of $100,000 per voyage on vessels of Hanjin Shipping Co., Ltd. ("Hanjin") and Hyundai Merchant Marine Co., Ltd. ("Hyundai") (collectively, "Korean Carriers"), which operate in the United States/Korea oceanborne trade ("Trade"), in order to meet conditions unfavorable to shipping in the Trade created by the Government of the Republic of Korea ("ROK" or "Korea"). The Commission noted that Korea appeared to be enacting, implementing and enforcing laws and regulations unreasonably precluding U.S.-flag carriers from engaging in trucking operations in Korea and from directly contracting for rail service in Korea incidental to intermodal commerce in the Trade.

At the time of issuance of the proposed rule, U.S. carriers were effectively prevented from engaging in their own trucking operations by virtue of rules and policies administered by the ROK Ministry of Transport ("MOT") and Ministry of Finance ("MOF"). The Commission expressed its understanding that an MOT license to engage in trucking is unobtainable because MOF guidelines list freight trucking among business categories in which foreign investment is prohibited.

U.S. carrier rail access appeared to be precluded, the proposed rule stated, because only rail forwarders are permitted direct contracting authority with the Korean National Railroads Administration ("KNRA"). Hanjin and Hyundai, in their responses to information demand orders issued prior to the proposed rule, indicated that the anticipated easing of restrictions on rail contracting authority would be tied to trucking liberalization.

The Commission specifically requested comments on the proposed sanctions as well as developments affecting Trade conditions.

Inter-governmental discussions conducted in July 1991 resulted in Agreed Minutes ("1991 Agreed Minutes") addressing the trucking and rail access issues. The ROK announced its "firm policy to open fully long-haul trucking to U.S. carriers," and established a schedule which would, by June 30, 1993, purportedly open U.S. carrier trucking authority to 40% of Korea's geographical area and 48 percent of its container traffic. The 1991 Agreed Minutes also indicated that by the end of 1991, licenses to contract directly with KNRA would be issued to the U.S. carriers covering both directions between Seoul and Pusan, accounting for 99.7 percent of Korea's rail-transported container cargo.

Comments submitted in response to the Proposed Rule on behalf of U.S. carriers American President Lines, Ltd ("APL") and Sea-Land Service, Inc. ("Sea-Land") (collectively, "U.S. Carriers") expressed dissatisfaction with the extent of the ROK's commitments contained in the 1991 Agreed Minutes, and with the gradual rather than immediate steps toward effectuation of the liberalization policy to which the ROK had committed. The U.S. Carriers recommended that sanctions be held in abeyance, however, inasmuch as further significant progress was anticipated, and the "underlying purpose" of the proposed rule—*i.e.*, to stimulate a solution—was "well satisfied." Hanjin and Hyundai urged that the proceeding be discontinued, Hanjin arguing that substantial government concessions such as those made by Korea were the basis of discontinuing other Section 19 proceedings.

The Commission determined, on the basis of the commitments made in the 1991 Agreed Minutes and on the U.S. Carriers' recommendations, to hold the proceeding in abeyance. In a Notice served October 30, 1991, the

Commission requested supplemental comments on the implementation of commitments already made and on future progress, due February 3, 1992 and May 29, 1992. The Commission also indicated that it would be announcing an opportunity for additional comments due approximately one month after the consultations planned for 1992.

Supplemental Comments

February 1992 Submissions

Sea-Land reported that it applied for and obtained from KNRA a rail license, and began moving containers by rail on January 7, 1992, but had difficulty procuring adequate allocation of capacity and a bonded transportation permit ("BTP"). Sea-Land advised that trucking liberalization was progressing as scheduled. APL stated it had obtained a rail license for Pusan to Seoul, and that it had not undertaken any trucking operations, "although such operations have been permitted since August 1, 1991."

Hyundai reported that the expected liberalizations had become effective, both in terms of rail access and trucking. It stated that the U.S. carriers applied for and received the necessary licenses, and noted that Korean carriers' applications for similar trucking licenses in Korea "can be opposed, and possibly defeated, by existing Korean motor carriers." Similarly, Hanjin indicated that each of the ROK's commitments expressed in the 1991 Agreed Minutes had been carried out, and advised that both U.S. Carriers had applied for rail licenses but neither had applied for a trucking license.

Hanjin filed an additional submission, essentially a rebuttal of Sea-Land's comment.[1] Hanjin explained that Sea-Land's claim that it was being denied a BTP is the result of Sea-Land's choosing not to apply for a trucking license, a prerequisite for a BTP. Hanjin also represented that Sea-Land's low allocation of rail car capacity reflected the low volume of Sea-Land's past traffic.

May 1992 Submissions

Sea-Land explained that although trucking licenses were available, it had not applied for one because they would authorize only local trucking activities. An "economically viable trucking company" would involve long-haul trucking, Sea-Land contended. Sea-Land maintained that it was being allocated limited rail capacity because Korea is treating it as a "new user" instead of recognizing volumes previously moved by Sea-Land through its operating agent. Sea-Land also confirmed that it was being denied a BTP on the basis of its not having a trucking license, and reiterated that it will not apply for a trucking license because it is not economically feasible to have one absent long-haul trucking authority. Because it lacks a BTP, Sea-Land explained, it is denied the right of moving loaded equipment by rail without incurring the expenses of a licensed trucker. Sea-Land concluded that the liberalizations achieved to date have not proven useful because of the restrictions on long-haul trucking and limits on rail capacity.

APL reported that it obtained rail licenses but had not used them. APL stated it had not initiated trucking operations because the authority would be too limited to be economical.

Hanjin and Hyundai both contended that the liberalizations were proceeding as scheduled.

August Comments and Developments

On June 25, 1992, the Commission issued a Second Request for Additional Comment, which particularly solicited information relating to the inter-governmental discussions scheduled for July 1992. The comments were due August 12, 1992.

Bilateral consultations were in fact held on July 7–9, 1992, and were continued to August 5–6, 1992. Agreed Minutes of each discussion ("July Agreed Minutes" and "August Agreed Minutes," respectively) have been forwarded by the U.S. Maritime Administration ("MARAD").

July Agreed Minutes

The July Agreed Minutes stated flatly that the "two sides failed to reach an agreement on the schedule for full liberalization of Korea's trucking market." The U.S. delegation stated that liberalization has been sought since 1987, and should occur "by the end of 1993." It stressed that Korean carriers face no such barriers in the United States. The ROK delegation emphasized the difficulty of opening the market completely, in light of the small scale of domestic business. It stated that opening the market fully by January 1995 represents a balanced pace, inasmuch as the preceding intermediate stage of liberalization (in the geographical area of Kyong-Sang Buk Do) is scheduled for June 1993.

On the issue of rail access, the July Agreed Minutes reflect that the U.S. side complained that the ROK has not met its 1991 commitments to allow the U.S. Carriers to contract directly for rail movements. Effective limitations on rail access allegedly continue to exist because of the BTP requirement: to contract for rail movement of bonded containers, a BTP is required, but a precondition to obtaining a BTP is possession of a trucking license. Another limitation is reported to be the monthly allocation of rail space for the Pusan-Seoul route based on the previous space used on the small volume Seoul-Pusan route. The U.S. delegation characterized these impediments as resulting in continued competitive disadvantage to the U.S. Carriers, despite the promulgation of facially corrective regulations.

The ROK delegation argued that BTPs are a separate issue from KNRA rail access, and that obtaining a BTP would not be a problem for the U.S. Carriers if they would simply apply for a now-available trucking permit for the Pusan area. All the U.S. Carriers would allegedly need to qualify for a trucking license is one vehicle. The Koreans also explained that KNRA uses the same criteria in allocating space for all operators regardless of nationality and without discriminating.[2]

In the cover letter accompanying the July Agreed Minutes, MARAD Administrator Leback expressed his disappointment that "no progress was made toward resolving the issues of concern to the United States."

August Agreed Minutes

The August Agreed Minutes differ markedly in tone from the July Minutes. While the July Minutes consist of listings of separate positions and arguments by each side, the August Minutes are a single page in length and are composed entirely of statements concurred in by both sides.

The two delegations agreed that Korea would take all necessary steps to open fully its trucking market to the U.S. Carriers by March 31, 1994. This, it was agreed, would in turn improve the U.S. Carriers' rail access. The MOT, in consultation with the KNRA, will revise the Pusan-Seoul rail space allocation system in order to increase the monthly container capacity allocation for the U.S. Carriers. The Koreans will consider

[1] While this proceeding's procedural schedule does not provide for replies, Hanjin noted that the Proposed Rule specifically permits parties to advise the Commission of developments or events requiring immediate Commission attention. Hanjin suggested this is the case here, as the Commission would not want to rely on an inaccurate record. The Commission determined to accept the pleading, as Hanjin was essentially making representations of fact.

[2] The July Agreed Minutes also addressed other matters within the scope of FMC Docket No. 92–42.

waiving or modifying the trucking license prerequisite for a BTP.

In his accompanying cover letter, Acting MARAD Administrator Morris described the August discussions as resulting in substantial progress, and stated that Korea's commitments, when fully implemented, will be a positive contribution to transportation liberalization in Korea.

August submissions

In their joint comments, the U.S. Carriers report that no relaxation of restrictions or expansion of doing-business rights has occurred since their May 29 submissions. While the U.S. Carriers state they welcome the commitments resulting from the August Agreed Minutes, they "need assurances that demonstrable progress will be made toward meeting these commitments within the agreed schedule."

The U.S. Carriers reiterate Sea-Land's complaints, expressed in its earlier submission, concerning BTPs and the rail space allocation formula. They state that they await measurable progress in the short term through a meaningful increase in rail space allocation. The U.S. Carriers, noting what they consider to be unmet prior commitments by the ROK, explain that they therefore view "with caution" the most recent commitment to open trucking fully in 1994, expressed in the August Agreed Minutes.

The U.S. Carriers conclude that the as yet unabated restrictions on their intermodal operations constitute conditions unfavorable to shipping within the meaning of Section 19 and as described in the proposed rule. Accordingly, the U.S. Carriers state that the countervailing sanctions "as proposed" would be appropriate in order to reduce the competitive disadvantages faced by the U.S. Carriers, and to provide an incentive for the reduction of those restrictions and "the reduction of trade deficits." The U.S. Carriers particularly approve of the imposition of monetary sanctions, which they say will offset the competitive disadvantages to the U.S. Carriers by adjusting the Korean Carriers' cost of doing business.

The U.S. Carriers therefore request that the proposed rule be adopted, but, in light of the August commitments, that the implementation of sanctions be conditionally stayed—*i.e.*, that they be suspended so long as specific, measurable conditions are satisfied. The schedule of conditions proposed by the U.S. Carriers includes:

1. The U.S. Carriers report in December 1992 on the implementation of the rail space allocation commitments contained in the August Agreed Minutes.

2. The Korean Carriers provide the Commission with a copy of the Korean legislation, at least 30 days prior to its introduction in the Korean legislature, which would open the trucking market by March 1994, "in order to permit the FMC to determine whether or not it will fully satisfy the agreed commitments." The Korean Carriers would also provide a copy of such legislation as is actually introduced, as well as a description of every ROK prerequisite, condition, requirement and discretionary determination on which actual full and open trucking will depend.

3. The U.S. and Korean Carriers will report by April 5, 1994, on the status of the trucking market, to determine whether the commitment to open it by March 31, 1994, has been met.

In the event of any "material failure" on the part of Korea to realize its commitments, the U.S. Carriers recommend that the suspended sanctions by immediately imposed.

Hanjin urges the proceeding be discontinued on the grounds that all matters were satisfactorily concluded at the August consultations. Hanjin reiterates the progress achieved to date to liberalize trucking and refers to the previous schedule terminating in June 1993 covering the geographical area of Kyong-Sang Buk Do. It now considers the recent agreement to liberalize fully all long-haul trucking by March 1994 as resolving the issue.

Regarding rail access, Hanjin blames the U.S. Carriers' failure to obtain full KNRA contracting authority on the U.S. Carriers' unwillingness "to make the minimal effort to obtain a trucking license." It also alleges that the rail space allocation system is non-discriminatory as between Korean carriers and others. Nevertheless, Hanjin reports, these matters have been the subject of additional concessions which will result in increased monthly rail space allocations for the U.S. Carriers, and may lead to liberalization of the BTP restrictions. Even without these accommodations by Korea, Hanjin argues, the U.S. Carriers "could have access on the same basis as Korean companies."

In short, it contends, no conditions now remain which justify sanctions against the Korean Carriers. Hanjin maintains it would be unfair to it and Hyundai to hold the proceeding in abeyance pending the realization of commitments, because the Korean Carriers have supported the liberalizations. The Commission could always initiate a new proceeding if necessary, Hanjin notes. Moreover, it claims the Commission has discontinued proceedings in other trades, such as in Taiwan, "even when there is considerably less progress."

Hyundai makes the same general arguments as does Hanjin. The only additional point Hyundai makes relates to its somewhat more optimistic characterization of the Korean commitment to consider modification of the BTP requirement: "Efforts will be made to temporarily authorize the U.S. Carriers to transport bonded containers by rail without the usual trucking license or truck ownership." This, Hyundai asserts, may result in a U.S. Carrier advantage over their Korean competitors, "whose access to domestic transportation markets is more restrained and for whom comparable waivers may not be available." [3]

Discussion

Findings of unfavorable trade conditions

The Commission has determined on the basis of the record compiled in this proceeding to issue a final rule finding that conditions unfavorable to shipping exist within the meaning of section 19, as a result of restrictions which continue to be imposed by the ROK on U.S. Carriers' trucking authority. The schedule currently in place for opening the trucking market to the U.S. Carriers in the Trade would cover less than half of Korea's geographical area and container traffic. Only a fully open market will permit long-haul trucking between Seoul and Pusan. The interim steps short of that are but an encouraging movement in the right direction, and do not constitute the necessary relief. Inasmuch as the record is uncontroverted in indicating that the U.S. Carriers continue to be barred from engaging in trucking as part of their intermodal operations in the Trade, the Commission must conclude that, at present, those conditions warrant a finding under Section 19. That the ROK has recently committed to opening the trucking market completely by March 31, 1994, was, as noted below, a determining factor in the decision to suspend sanctions, but is ultimately irrelevant to the determination of whether unfavorable conditions in the Trade currently exist. The final rule has accordingly been amended to reflect the

[3] A late-filed Request for Leave to Submit Reply Comments was filed by Hyundai on September 4, 1992. Unlike Hanjin's February rebuttal of Sea-Land's comment, which contained timely factual representations, Hyundai's submission is largely repetitive and essentially argumentative. Its request is therefore denied.

liberalizations achieved to date and the commitment to allow full U.S. Carrier trucking operations in the future.

The Commission is not making a finding of unfavorable trade conditions with respect to the rail access issue at this time, and these provisions from the Proposed Rule have not been incorporated into the final rule. The Commission notes that, theoretically, direct rail access was made available to the U.S. Carriers by the end of calendar year 1991. Of considerable concern, however, are the somewhat confusing arguments offered by both the U.S. and Korean Carriers relating to the U.S. Carriers' claim that additional restrictions are effectively impeding full rail access.

It is not evident whether the trucking license requirement for issuing BTPs is a device to preserve BTP accessibility for Korean Carriers. Nor is it clear why the U.S. Carriers do not apply for a trucking license solely for use to qualify to issue BTPs, even though they do not intend to engage in trucking operations until final liberalization is achieved. The record is silent as to the costs to the U.S. Carriers that would be involved in possession, if not full utilization, of a trucking license. The commitment by the ROK expressed in the August Agreed Minutes to "consult with its customs authorities with a view to exploring means by which existing regulations may be temporarily waived or modified" is so vague and tentative as to shed little light on the issue and provides scant assurance of its resolution. To this end, the parties are being requested to address these issues in reports to be submitted to the Commission pursuant to the schedule prescribed herein.

Similarly, it is unclear on the record before the Commission what space allocation formula is currently utilized by the ROK to assign rail space and to what effect (the formula is reportedly recomputed monthly, and the last and only submission of data was from Sea-Land, and dated February 1992), why that method was chosen by the ROK, how it allegedly discriminates against the U.S. vis-a-vis the Korean Carriers, and how it is to be revised pursuant to the recent ROK commitment. Again, the Commission will seek clarification of these matters in response to its information demand orders.

Sanctions

In order to meet the unfavorable conditions found to exist in the Trade, the Commission has determined to impose a fee of $100,000 per voyage on the vessels of Hanjin and Hyundai calling at U.S. ports, as set forth in the Proposed Rule. In the event that any prescribed fees are not paid, delinquent carriers will be subject to suspension of tariffs and denial of clearance from or access to U.S. ports. Other than the Korean Carriers' more general assertion that no sanctions at all are appropriate, the parties' submissions include no suggestions for alternative measures. The Commission concludes that a monetary fee, as opposed to limitations of sailings or suspension of tariffs or agreements, in an appropriate countervailing measure to address the conditions in issue, and will cause the least disruption to the Trade.[4]

The remedies assessed herein will not become effective—*i.e.*, will not be assessed—immediately. Rather, the Commission has suspended the effective date of the sanctions until June 1, 1994. This will provide time for the ROK to meet its commitment to open trucking by March 31, 1994, and for the affected carriers to report on such implementation prior to the assessment of any fees. The Commission is hopeful that reports of the satisfactory resolution of these matters will be submitted in time to obviate the need for allowing the sanctions to go into effect. Should the Commission determine that the March 31, 1994, deadline for full trucking liberalization has not been met, the Commission will allow the sanctions to become effective on June 1, 1994. Similarly, if reports received in the meantime indicate failure to meet commitments already made, or reflect that additional restrictions have negated the effectiveness of liberalizations achieved, the Commission will consider terminating the suspension of the sanctions prior to June 1, 1994. The Commission normally gives full faith and credit to foreign governmental commitments to remove restrictive trade practices, and has accorded the ROK such deference in the past. However, recent failures to follow through on commitments and to effect meaningful reform force the Commission to monitor closely the carrying out of the ROK commitments and to remain poised to implement the necessary remedies.

Reports

The Commission is also requiring the U.S. and Korean Carriers named herein [5] to submit periodic reports, pursuant to section 19(6) of the Merchant Marine Act, 1920, 46 U.S.C. app. 876(6), in order to appraise the Commission of progress in achieving liberalization and of any additional developments, including proposed or effected changes in Korean laws, regulations and policies. Any party alleging the existence of continued or new unfavorable conditions shall describe in detail the effect of those conditions on its operations.

The reports should address the trucking authority restrictions, as well as U.S. Carriers' right to direct rail access and the alleged impediments discussed by the U.S. Carriers in their submissions. To this end, the Commission directs the Named Carriers to respond to the following specific questions, to the best of their knowledge (some questions may be inapplicable to or outside the knowledge of some of the Named Carriers):

1. Has the ROK adhered to the timetable established in 1991 and supplemented in August 1992 for opening the trucking market?

2. What are the costs and requirements for a U.S. Carrier to obtain a trucking license in order to qualify to issue a bonded transportation permit? Would a trucking license be issued if it were evident it would be used for that limited purpose? Would the ability of a U.S. Carrier to issue a BTP be limited to a certain geographic range according to the geographic limits of its trucking license?

3. What is the cost of hiring a local licensed trucking company with authority to issue a BTP in order to carry loaded containers? Have U.S. Carriers ever incurred such cost, or has the deterrent effect of such expense completely precluded the rail movement of loaded containers by U.S. Carriers?

4. What has resulted from the ROK August 1992 commitment "to consult with its customs authorities with a view to exploring means by which existing regulations may be temporarily waived or modified * * *"?

5. What rail space allocation method or formula has been used most recently? What is the rationale for the use of this particular approach?

6. What is or was the rationale for allocating space on the northbound route on the basis of prior movements on the southbound route?

7. How does the formula referenced in Question 6 and any other formula used or in use discriminate or otherwise unduly disfavor U.S. Carriers vis-a-vis

[4] By separate order issued this date, the Commission is also requesting that Korean-flag carrier Cho Yang Line show cause why it should not be subject to the same fee.

[5] Carriers subject to this reporting requirement are American President Lines, Ltd., Sea-Land Service, Inc., Hanjin Shipping Company Ltd., and Hyundai Merchant Marine Co., Ltd. ("Named Carriers"). Again, the Show Cause Order issued this date addresses whether Cho Yang Line should also be a Named Carrier subject to the final rule's reporting requirements.

other carriers requesting rail space? How does the size of those respective routes contribute to any alleged discrimination? Are the southbound volume data higher for Korean Carriers than for U.S. Carriers?

8. Has the allocation system been changed during 1992? If so, when, and to what effect?

9. Is Sea-Land continuing to maintain that the KNRA was not counting volumes of cargo previously moved through Sea-Land's agent?

10. Is Sea-Land continuing to maintain that it is being "treated as a new user"? If so, how does this treatment factor into the allocation formula?

11. What percentage of available rail space has been allocated for each Named Carrier over the last six months? If these allocations differ from expected or desired allocations, explain in what way and to what extent.

The Named Carriers shall submit said reports by the following dates: December 15, 1992; May 1, 1993; November 1, 1993; and May 1, 1994. The reports shall address the specific questions enumerated above, as well as provide any additional information or documentation available by way of updating the Commission on trucking and rail access issues, including copies of applicable laws, orders and regulations. Questions fully answered in the December 15, 1992 reports need not be readdressed in subsequent reports unless changed circumstances require that those answers be updated or supplemented. Any document written in a language other than English shall be accompanied by an English translation. The reports shall be directed to the Secretary, Federal Maritime Commission, Washington, DC 20573, and shall consist of an original and 15 copies.

List of Subjects in 46 CFR Part 586

Cargo vessels; Exports; Foreign relations; Imports; Maritime carriers; Penalties; Rates and fares; Tariffs.

Therefore, pursuant to section 19(1)(b) of the Merchant Marine Act, 1920, 46 U.S.C. app. 876(1)(b), as amended, Reorganization Plan No. 7 of 1961, 75 Stat. 840, and 46 CFR part 585, part 586 of title 46 of the Code of Federal Regulations is amended as follows:

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

Authority: 46 U.S.C. app. 876(1)(b); 46 U.S.C. app. 876(5) through (12); 46 CFR Part 585; Reorganization Plan No. 7 of 1961, 26 FR 7315 (August 12, 1961).

2. A new section is added reading as follows:

§ 586.5 Conditions unfavorable to shipping in the United States/Korea trade ("Trade")—Intermodal Operations

(a) *Conditions unfavorable to shipping in the trade.* (1) The Federal Maritime Commission ("Commission") has determined that the Government of the Republic of Korea ("ROK" or "Korea") has created conditions unfavorable to shipping in the foreign trade of the United States by enacting, implementing and enforcing laws and regulations which unreasonably restrict U.S.-flag carrier trucking operations in Korea incidental to intermodal commerce in the Trade.

(2) Under Korean law, entities desiring to engage in trucking operations in Korea must obtain a license, but said license is not yet issued to U.S.-flag carriers to engage in such operations on a nationwide basis in Korea. Korean carriers face no similar restrictions in their intermodal operations in the United States.

(b) *Korean-flag carriers—assessment of fees.* (1) Generally, *voyage* means an inbound or outbound movement between a foreign country and the United States by a vessel engaged in the United States trade. Each inbound or outbound movement constitutes a separate voyage. For purposes of this section, the transportation of cargo by water aboard a vessel or vessels, inbound or outbound between ports in Korea and ports in the United States, including transshipment points, under one or more bills of lading issued by or on behalf of the Korean-flag carriers named in paragraph (b)(2) of this section, whether on board vessels owned or operated by the named carriers or in space chartered by the named carriers on vessels owned or operated by others, or carried for the account of the named carriers pursuant to agreements on file with the Federal Maritime Commission, under any of the tariffs enumerated in paragraph (b)(4) of this section, shall be deemed to constitute a voyage.

(2) For each voyage completed after the effective date of this section, the following carriers shall pay to the Federal Maritime Commission a fee in the amount of $100,000: Hanjin Shipping Co., Ltd., and Hyundai Merchant Marine Co., Ltd. The fee for each voyage shall be paid by certified or cashiers check made payable to the Federal Maritime Commission within 7 calendar days of the completion of the voyage for which it is assessed.

(3) Each Korean-flag carrier named in paragraph (b)(2) of this section shall file with the Secretary of the Federal Maritime Commission a report setting forth the date of each voyage completed, amount of cargo carried, and amount of fees assessed pursuant to paragraph (b)(2) of this section during the preceding calendar quarter. Each such report shall include a certification that all applicable fees assessed pursuant to paragraph (b)(2) of this section have been paid, and shall be executed by the Chief Executive Officer under oath. Such reports shall be filed within 15 days of the end of each calendar quarter.

(4) If any Korean-flag carrier shall fail to pay any fee assessed by paragraph (b)(2) of this section within the prescribed time for payment, or fail to file any quarterly report required by paragraph (b)(3) of this section within the prescribed period for filing, the tariffs identified below, as applicable to such carrier, shall be suspended effective 30 calendar days after the expiration of the calendar quarter in which such fees or report were due:

(i) Hanjin Shipping Company, Ltd.

FMC No. 12—Service Contract Tariff FMC No. 12

FMC No. 15—Freight Tariff FMC No. 15, Applicable from Ports in Japan to Ports and Points in the United States

FMC No. 16—Local and Intermodal Freight Tariff FMC No. 16, Applicable from Ports/Points in the Far East (excluding Japan) to Ports and Points in the United States, Puerto Rico and U.S. Virgin Islands

FMC No. 17—Equipment Interchange Tariff Naming Terms and Conditions Governing Use of Carrier Equipment

FMC No. 18—Westbound Local and Intermodal Freight Tariff FMC No. 18, Applicable from Ports and Points in the United States to Ports and Points in the Far East

FMC No. 19—Local and Intermodal Freight Tariff FMC No. 19, Applicable from European and Mediterranean Ports and Points to U.S. Ports and Points

(ii) Hyundai Merchant Marine Co., Ltd.

FMC No. 1—Freight Tariff No. 1, Applicable from Ports in the Far East and Mexico to Ports in the United States, Hawaii and Puerto Rico

FMC No. 14—Service Contract Tariff No. 14, Naming Essential Terms and Services as Provided in Service Contracts on File with the Federal Maritime Commission

FMC No. 18—Eastbound Local/OCP and Intermodal Rules Tariff No. 18, Applicable from Ports and Points in Korea, Taiwan, Hong Kong, Thailand, Singapore, Malaysia, Philippines, Indonesia, Peoples Republic of China, India, Pakistan, Bangladesh and Sri Lanka to Ports and Points in the United States

FMC No. 19—Eastbound Local/OCP and Intermodal Rules Tariff No. 19, Applicable from Ports and Points in Korea to Ports and Points in the United States

FMC No. 20—Eastbound Local/OCP and Intermodal Rules Tariff No. 20, Applicable from Ports and Points in Taiwan, Hong

Kong and Peoples Republic of China to Points in the United States
FMC No. 21—Eastbound Local/OCP and Intermodal Rules Tariff No. 21, Applicable from Ports and Points in Thailand, Singapore, Malaysia, Philippines and Indonesia to Ports and Points in the United States
FMC No. 22—Eastbound Rules Tariff FMC No. 22, Applicable from Ports and Points in Japan to Ports and Points in the United States
FMC No. 23—Eastbound Tariff No. 23, Applicable from Ports and Points in Japan to Ports and Points in the United States
FMC No. 30—Ocean and Intermodal Freight Tariff No. 30, Applicable from Ports and Points in the United States to Ports and Points in the Far East
FMC No. 31—Eastbound Breakbulk/Non-Containerized Cargo Tariff, Applicable from Ports in Korea and (to) Ports in the United States and Puerto Rico
FMC No. 32—Eastbound Local/OCP/and Intermodal Freight Tariff FMC No. 32, Applicable from Ports and Points in India, Pakistan, Bangladesh and Sri Lanka to Ports and Points in the United States

(iii) [reserved]

(iv) Any other tariff which may be filed by or on behalf of the carriers listed in paragraph (b)(2) of this section.

(v) In the event of suspension of tariffs pursuant to this paragraph, all affected conference or rate agreement tariffs shall be amended to reflect said suspensions. Operation by any carrier under suspended, cancelled or rejected tariffs shall subject said carrier to all applicable remedies and penalties provided by law.

(c) *Source of fees.* Any fees assessed by paragraph (b)(2) of this section against Korean-flag carriers operating pursuant to any agreement filed with the Federal Maritime Commission providing for revenue pooling, joint service, space-chartering or other joint operations shall be paid by such Korean-flag carriers without affecting the revenue shares or amount of revenue earned by Korean carriers operating pursuant to such agreements.

(d) *Refusal of clearance by the collector of Customs.* If a named Korean-flag carrier shall fail to pay any fee assessed by paragraph (b)(2) of this section, or fail to file any quarterly report required by paragraph (b)(3) of this section within the prescribed period for filing, the Secretary of the Commission shall request the Chief, Carrier Rulings Branch of the U.S. Customs Service to direct the collectors of customs at the affected U.S. port or ports, to refuse the clearance required by section 4197 of the Revised Statutes (46 U.S.C. app. 91) to any vessel owned or operated by such Korean-flag carrier.

(e) *Denial of entry to or detention at United States Ports by the Secretary of Transportation.* If a named Korean-flag carrier shall fail to pay any fee assessed by paragraph (b)(2) of this section, or fail to file any quarterly report required by paragraph (b)(3) of this section within the prescribed period for filing, the Secretary of the Commission shall request the Secretary, U.S. Department of Transportation, to direct the Coast Guard to: (1) Deny entry for purpose of oceanborne trade, of a vessel of a country that is named in paragraph (a) of this section, to any port or place in the United States or the navigable waters of the United States; or (2) detain that vessel at the port or place in the United States from which it is about to depart for another port or place in the United States.

(f) *Effective date.* Paragraphs (a) and (f) of this section effective December 18, 1992. Paragraphs (b) through (e) of this section shall become effective on June 1, 1994, unless otherwise determined by further order of the Commission amending this section.

By the Commission.

Ronald D. Murphy,

Assistant Secretary.

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 61, 64, 65, and 69

[CC Docket No. 91-141, FCC 92-440]

Expanded Interconnection With Local Telephone Company Facilities

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In the Order, as a part of its efforts to bring customers the full advantages of newly developing competition, the Federal Communications Commission (Commission) takes an important step forward increased competition in the provision of interstate access services by removing barriers to competitive interconnection found in local exchange carrier (LEC) special access rate structures. The Order requires Tier 1 LECs (except the Puerto Rico Telephone Co.) to offer expanded opportunities for interconnection with their networks for the provision of interstate special access service, permitting competitors and high volume users to terminate their own special access transmission facilities at LEC central offices. Tier 1 LECs are generally required to offer expanded interconnection through physical collocation to interconnection that request it, and, under certain circumstances, virtual collocation arrangements as well. Expanded interconnection will be available to all interested parties, including competitive access providers (CAPs), interexchange carriers (IXCs), and end users. Tier 1 LECs will include connection charges in their tariffs, which are designed to compensate them for services provided to interconnectors. The LECs will not be allowed to include a contribution charge in their tariffs, absent further Commission action. The Commission is also authorizing some additional pricing flexibility to enable Tier 1 LECs to respond to competition. Together, these measures establish a balanced regulatory framework for increased competition in the interstate special access market.

DATES: This rule is effective February 16, 1993.

The interim tariff filing requirement applicable to Central Telephone Co. of Illinois, Illinois Bell Telephone Co., New England Telephone and Telegraph Co., New York Telephone Co., Pacific Bell, Rochester Telephone Co., and (under specified conditions) Bell Telephone Co. of Pennsylvania must be complied with on or before November 18, 1992.

FOR FURTHER INFORMATION CONTACT: Douglas L. Slotten, 202-653-6975, or David L. Sieradzki, 202-632-1304, Common Carrier Bureau, Policy & Program Planning Division.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order in CC Docket No. 91-141, adopted September 17, 1992, and released October 19, 1992.

The complete text of this Report and Order is available for inspection and copying during normal business hours in the FCC Reference Center, 1919 M St., NW., room 239, Washington, D.C. 20554.

SYNOPSIS OF REPORT AND ORDER

I. Interconnection Architecture

1. We require the LECs subject to the Order (as described more fully below) to make physical collocation available to all interconnectors that request it. Under this forms of collaction, the interconnecting party pays for LEC central office space in which to locate the equipment necessary to terminate its transmission links, and has physical access to the LEC central office to install, maintain, and repair this equipment.

2. The parties remain free, under this approach, to negotiate satisfactory virtual collocation arrangements if such

arrangements are preferable to physical collocation from the point of view of both parties. Thus, although all interconnectors will have a right to physical collocation if they choose, we envision that LECs and interconnectors may be able to negotiate virtual collocation arrangements sufficiently comparable in quality to physical collocation that interconnectors may choose virtual rather than physical collocation.

3. Based on the record before us, we can envision only two reasons that would justify granting a LEC an exemption from the requirement that it make the option of physical collocation available. The first would be a demonstration by the LEC that a particular central office lacks physical space to accommodate physical collocation. The second would be a formal decision by a state legislature or public utility regulatory agency, after proceedings allowing all interested parties a reasonable opportunity to be heard, in favor of virtual collocation rather than physical collocation for intrastate expanded interconnection, or in favor of allowing LECs to choose which form of interconnection to use for intrastate expanded interconnection. Exemption requests based on such final state decisions must be submitted by the date for filing the interstate tariffs required by the Order. Exemption requests must include a copy of the final state decision. State public utility regulatory agency decisions approving LEC/CAP settlement agreements providing for intrastate implementation of virtual collocation will not by themselves be deemed formal decisions in favor of virtual collocation or LEC choice of interconnection architecture for this purpose. We note that this is the only instance in which the Commission's interest in ensuring physical collocation for interstate services should give way to a state's preference for virtual collocation. After the filing of the LECs' interstate expanded interconnection tariffs, interested parties would remain free to petition for waiver of our general physical collocation requirement based on unique circumstances.

4. We are also imposing specific conditions on LEC provision of virtual collocation in order to minimize any technical differences between physical and virtual collocation. We conclude that interconnectors using virtual collocation arrangements should be allowed to designate the central office transmission equipment dedicated to their use, as well as monitor and control their circuits terminating in the LEC central office. Thus, the equipment used to terminate interconnected circuits would be located in the LEC central office under both virtual and physical collocation.

5. We see no reason to limit interconnector central office transmission equipment selections to a list developed by the LEC, although the designated central office transmission equipment must meet applicable fire and safety codes. In the unlikely event that interconnector-designated equipment or operating practices represented a significant and demonstrable technical threat to the LEC network, moreover, the LEC would be allowed to proscribe use of such equipment or practices. We also conclude that the LECs should be permitted to require that an interconnector bear any additional costs reasonably incurred by the LECs as a result of the interconnector's choice of equipment under virtual collocation.

6. Our part 68 rules require the LECs to disclose information regarding their network interfaces with interconnectors at the cross-connect point. 47 CFR 68.110. We find that the LECs' network disclosure obligations do not apply to the electronic equipment designated by an interconnector under virtual collocation arrangements. Carriers other than the LECs are subject to independent network disclosure requirements under the current rules, however. Thus, carriers interconnecting with the LECs pursuant to expanded interconnection will have to disclose certain network information concerning the equipment that they place, or designate for placement, in the LEC central office.

7. We conclude as well that safeguards are necessary to protect against possible LEC discrimination in installation, maintenance, and repair of interconnector-designated equipment under virtual collocation. We require that the LECs, at a minimum, install, maintain and repair interconnector equipment under the same time intervals and with the same failure rates that apply to the performance of similar functions for comparable LEC equipment. To provide a foundation for evaluating possible complaints, we will require LECs to keep records and file reports annually on the installation, maintenance, and repair times for comparable LEC and interconnector equipment and circuits.

8. Interconnector monitoring and control is critical for interconnector maintenance of quality standards because it permits the CAP to detect and correct service problems on its interconnected circuits. We conclude that interstate special access interconnectors should be allowed to perform this function for themselves under virtual collocation. The LECs, however, may provide monitoring and control functions for interested interconnectors.

II. Availability of Expanded Interconnection

A. Parties Who Must Provide Expanded Interconnection

9. Only Tier 1 LECs—those companies having annual revenues from regulated telecommunications operations of $100 million or more, under the criteria used to define Class A companies in 47 CFR 32.11(a) and 32.11(e)—are required to provide expanded interconnection. We also conclude that National Exchange Carrier Association (NECA) pool members should be excluded from expanded interconnection requirements, at least for the present. The Puerto Rico Telephone Company is the only Tier 1 LEC that also is a NECA pool member. Rate of return Tier 1 carriers not in the NECA pool, however, are obligated to provide expanded interconnection.

B. Parties Entitled to Expanded Interconnection

10. We conclude that expanded interconnection for special access should be made available to all parties who wish to terminate their own special access transmission facilities at LEC central offices, including CAPs, IXCs, and end users. We see no reason to impose substantial restrictions on AT&T's use of expanded interconnection that do not apply to other parties, but will monitor expanded interconnection to determine whether parties other than AT&T are taking advantage of expanded interconnection. We also conclude that AT&T, and any other parties already located in the same building as a LEC central office (other than entities currently collocated for the purpose of expanded interconnection), should be required to interconnect with LEC facilities in the same manner as other interconnectors, using fiber optic facilities. We will not require that entities already located in the same building as a LEC central office actually route fiber optic facilities out of the building and back in through the same route used by other interconnectors, however, since that would use potentially scarce riser and cable vault space.

11. Thus, parties already located in the same building as a LEC central office, for example, will be required to rent additional floor space and furnish it with appropriate electronic transmission

equipment and fiber optic cable under physical collocation. Moreover, under physical collocation, we require that these parties' initial space preparation fees, in addition to covering the cost of preparing the interconnector's floor space, compensate the LEC for the cost of installing fiber optic cabling running from the entry point to the interconnector's designated floor space in the LEC central office. As a result, these parties will incur the same expenses as any other interconnector. Under virtual collocation, these parties are to pay for central office equipment dedicated to their use as well as charges to cover the cost of fiber optic cable from the entry point to the interconnector central office equipment. While we are not requiring that interconnectors located in LEC central office buildings run fiber optic facilities out to the interconnection point and back into the building, they must compensate the LEC as if the LEC provided those facilities and interconnect exactly like other parties in all remaining aspects.

III. Standards for Interconnection Arrangements

A. Space Allocation and Exhaustion

12. In certain LEC central offices, space for physical collocation could become filled to capacity. In such circumstances, we conclude that, rather than being free to reject subsequent requests for expanded interconnection, LECs should be required to provide virtual collocation when space for physical collocation is exhausted. In addition, we conclude that LECs should be required to offer central office space on a first-come, first-served basis. We also permit LECs to include in their tariffs reasonable restrictions on warehousing of unused space by interconnectors.

13. LECs claiming that space is exhausted in any particular central office may file petitions for exemption from the general requirement that LECs make physical collocation available to interconnectors desiring it. A LEC that is already offering interstate physical collocation in a given office must continue to do so during the pendency of such petitions. As central office space is exhausted, the LEC will, of course, have to cease offering physical collocation to new interconnectors, and begin using virtual collocation to accommodate these parties at a point when enough central office space is still available to accommodate all anticipated expanded interconnection customers through virtual collocation. Once a LEC provides physical collocation in a particular central office, however, we would not permit it to withdraw this offering for existing customers due to space limitations, absent extraordinary circumstances.

14. We find that requiring LECs to expand their facilities or relinquish space reserved for their future use, however, is neither reasonable nor likely to serve the public interest. We expect that LECs will consider interconnector demand for central office space when remodeling or building new central offices, just as they consider demand for other services when undertaking such projects.

15. Specific security issues as well as appropriate insurance levels and other similar matters are best resolved through informal discussions among interested parties, with those resolutions reflected in LEC tariffs. We believe that other detailed terms and conditions for physical collocation should be similarly developed. We will require that any arrangements imposed by the LECs meet legitimate concerns, and we will reject tariff language containing terms that are unreasonably restrictive or expensive.

B. Point of Interconnection

16. We conclude that we should require LECs to specify an interconnection point or points as close as reasonably possible to the central office. In order to ensure that all parties are treated fairly, these interconnection points must be physically accessible by both the LEC and interconnectors on non-discriminatory terms. Under virtual collocation, the interconnection point would constitute the demarcation between interconnector and LEC ownership of facilities. Under physical collocation, the interconnection point would not indicate a change in ownership of cable facilities, although the interconnector-owned fiber optic cabling would enter the LEC facilities through the same route. In the case of physical collocation, the interconnector would retain ownership of the cable, but would pay space rental for use of LEC conduit and other facilities starting at or very near the interconnection point.

C. Points of Entry into Central Offices

17. We conclude that LECs should be required to provide at least two separate points of entry to a central office whenever there are at least two entry points for LEC cable. The LEC need not offer more than two points of entry for interconnectors even if it has additional entry points for its own facilities.

D. Equipment Placed in Central Offices By or For Interconnectors

18. We conclude that the expanded interconnection requirements should apply only to central office equipment needed to terminate basic transmission facilities, including optical terminating equipment and multiplexers—the equipment necessary to foster competition for basic interstate access services. We do not here require the LECs to allow interconnectors to place in the central office or to designate for placement in the central office other types of equipment (such as enhanced services or customer premises equipment), under either physical or virtual collocation arrangements, since collocation of such equipment is unrelated to the competitive provision of basic transmission services. Thus, we decline to require that the LECs permit collocation of enhanced service provider (ESP) equipment, even when the party is already physically collocated for transmission purposes. We will not require the LECs to permit collocation of protocol conversion equipment either. We will, however, require the LECs to permit central office collocation of data-over-voice (DOV) equipment, used to provide a basic transmission service.

E. Interconnection of Non-Fiber Technologies

19. We here require that the Tier 1 LECs provide expanded interconnection of both fiber optic systems and, where reasonably feasible, microwave transmission facilities. The interconnection architecture and other related standards, as well as the tariffing, rate structure, and pricing rules adopted in the Order, will generally apply to microwave interconnection, except to the extent that differences in the interconnection technology warrant a different result.

20. We believe that interconnection of non-fiber optic cable facilities (*e.g.*, copper coaxial cable) should be permitted only upon Commission approval of a showing that such interconnection would serve the public interest in a particular case. This requirement would not apply to non-fiber optic cable used for the interconnection of microwave antennas located on the roof of the LEC central office building.

F. LEC Offices at Which Interconnection is Available

21. We believe that LECs should be required to provide expanded interconnection at serving wire centers (SWCs) and end offices. We also will require LECs to provide expanded

interconnection at remote distribution nodes, and any other points, that the LEC treats as a rating point—a point used in calculating the length of interoffice special access links. If interconnection at such a remote node is technically or practically infeasible, for example, because of space constraints, the LEC can apply for an exemption from or a waiver of this requirement. LEC expanded interconnection obligations extend to central office buildings that house end offices or SWCs as well as tandem switches, but not to buildings that contain only tandem switches and are not used as a rating point for special access.

G. Ratcheting of Switched and Special Access Services

22. Given the potential effect of CAP ratcheting (carrying switched access traffic over interconnected special access circuits while paying the full switched transport access charge to the LEC) on the market for switched transport, we do not believe at this time that interconnectors should be allowed to ratchet at a date significantly before the LECs have implemented a new transport rate structure.

IV. Pricing and Rate Structure Issues

A. Connection Charges

1. Rate Structure

23. We require that the LECs implement expanded interconnection by creating new connection charge elements for services they provide to interconnectors, rather than through formal unbundling of the special access rate structure into separate transmission and connection charges. We will not require unbundling of the cross-connect element from existing LEC special access rates. We will, however, require unbundling of any contribution charge that may be imposed in the future from existing special access channel termination rates, with the contribution charge applying to both LEC special access customers and interconnectors.

24. The LECs' connection charges will cover a number of different functions and equipment. At least initially, we will not impose a detailed rate structure on the LECs. Rather, we will allow the LECs to establish reasonable disaggregated subelements for the connection charges. We will, however, require the LECs to establish a cross-connect element that applies uniformly to both physical and virtual collocation. The magnitude of connection charges should not be based on the number or type of interconnected circuits a subscriber has, unless the cost of providing service depends upon the number or type of interconnected circuits.

2. Initial Rate Levels of Connection Charges

25. We conclude that the connection charge rate levels should receive the same scrutiny regardless of whether the rate changes would qualify as a rate restructure or a new service under the price cap rules. In particular, we will require the LECs to develop and justify consistent methodologies for deriving the direct cost of providing similar types of new offerings, including expanded interconnection services covered by the connection charge rate elements. Different direct costing methodologies could be used for different types of new offerings when justified by the LEC. We will also require the LECs to justify any deviations from uniform overhead loadings that they propose for pricing connection charges, although we will not specify a particular methodology in advance.

26. Certain aspects of the price cap new services test are not applicable in the context of expanded interconnection. For example, a risk premium would be inappropriate with respect to connection charges, since provision of expanded interconnection does not involve risky investment and technological research and development by the LECs. Similarly, we conclude that the pricing test applicable to new versions of existing services does not apply to connection charges for expanded interconnection. The revenue neutrality test usually applied to restructured, unbundled basic serving elements (BSEs) will not apply to connection charges in the expanded interconnection context. We also conclude that we should not require that connection charges meet the net revenue test.

3. Subsequent Rate Changes

27. We now designate expanded interconnection services covered by connection charges as services that are excluded from the LECs' price cap baskets. We also conclude that the existing tariff review standards and procedures are adequate to prevent discrimination or cross-subsidization by rate of return LECs. Accordingly, we do not adopt additional requirements to govern subsequent changes in connection charges by rate of return LECs. We will also require that revenue from connection charges be included in the special access service category to measure earnings for purposes of determining compliance with the maximum allowable rate of return.

B. Contribution Charge

28. The LECs' rates for various access services may reflect certain regulatorily mandated support mechanisms designed to achieve social policy objectives. In a competitive environment, we believe that all market participants must be required to share the cost of such support mechanisms. Accordingly, we reject the argument that the LECs should not, under any circumstances, be allowed to include a contribution charge in their expanded interconnection tariffs. On the other hand, the price cap system and other Commission rules give the LECs an adequate opportunity to recover general overhead revenues lost when customers take service from an interconnector. We therefore reject the argument that failure to provide for a contribution element constitutes confiscation.

29. We believe that any contribution charge in LEC expanded interconnection tariffs should be targeted to recover only specifically identified regulatory support mechanisms or non-cost-based allocations that are embedded in LEC rates for special access services subject to competition. Any such charge would be structured as a separate rate element applying equally to interconnected circuits and similar LEC services. Moreover, any contribution charge should recover revenues no greater than the demonstrated regulatory support flows that the LEC currently recovers in the rates for services subject to competition.

30. Based on the present record, the only significant non-cost-based support flow imposed by our regulations affecting special access is the over-allocation of General Support Facilities (GSF) costs to special access. This results from the part 69 requirement that the LECs exclude subscriber loop investment when allocating GSF overhead costs among access categories. That requirement causes substantial under-allocations of costs to the common line category and over-allocations to other categories, including both special access and switched transport. Instead of allowing a contribution charge, we are proposing in an associated Notice of Proposed Rulemaking to revise the part 69 rules to allocate GSF costs proportionally to all service categories. The LECs have not shown that any other regulatorily-imposed support flows significantly affect their special access revenue requirements. Accordingly, we will not allow the LECs to include amounts related to other possible support flows in a contribution charge absent further

Commission action. LECs asserting that other support flows exist and seeking to reflect them in a contribution charge must obtain Commission approval prior to filing tariffs designed to implement such a charge. If the Commission determines that GSF costs should not be reallocated to eliminate the current support flows, we would allow inclusion of GSF in a contribution charge to the extent that they are recovered through the charges for services subject to competition.

C. Tariffing

31. We believe that tariffing requirements must be established to prevent anticompetitive pricing and discrimination. Accordingly, the LECs are to tariff general terms and conditions applicable to their physical collocation and to their virtual collocation expanded interconnection offerings. While the terms and conditions for expanded interconnection offerings may differ, they must be generally available. We will require that the LECs provide the following expanded interconnection elements pursuant to generally available tariffs at study-area-wide averaged rates under both physical and virtual collocation: (1) The cross-connect element, which covers the short cable connection from the LEC distribution frame to the central office electronic equipment owned by or dedicated to the interconnector; and (2) any contribution charge that may be permitted in the future. Since these elements will be fairly standard, we see no need for the greater flexibility possible with use of individually negotiated tariff provisions.

32. We also conclude, with respect to certain other connection charge elements, that charges may reasonably differ by central office due to variations in costs, but should be uniform for all interconnectors in each individual central office. These elements include: (1) Charges for central office space usage under physical collocation, which must be tariffed at a uniform charge per square foot (or other unit) of space for all interconnectors in any given central office; (2) labor and materials charges for initial preparation of central office space under physical collocation and for installation, repair, and maintenance of central office electronic equipment dedicated to the use of interconnectors under virtual collocation; and (3) other charges that reasonably can be standardized for each central office, such as those for power, environmental conditioning, and use of riser and conduit space. If different interconnectors use different amounts of space, desire arrangements that require different amounts of time and materials to construct, or have different preferences regarding installation, maintenance, and repair by LEC personnel, total charges will differ accordingly, but the unit charges should be uniform in each central office. Labor and materials charges may include appropriate overhead loadings. Labor rates may also differ by type of personnel or by time of day.

33. On the other hand, it appears that the rates, terms, and conditions for the use of different types of central office electronic equipment dedicated to interconnectors under virtual collocation are best tailored to reflect individual circumstances. For example, interconnectors may wish to use different types of central office equipment with significantly differing costs, or LECs and interconnectors may negotiate different financial arrangements. We will allow the LECs and interconnectors to negotiate the rates, terms, and conditions of such connection charge subelements, but will require the LECs to file those rates, terms, and conditions, which must then be made available to all similarly situated interconnectors under tariff. We expect LECs and interconnectors to cooperate in developing the terms and conditions of interconnection arrangements within the guidelines we establish in the Order. If the LECs and interconnectors are unable to reach agreement on all interconnection provisions, the LECs will be required to file expanded interconnection tariffs in accordance with the schedule established herein.

34. We believe that the public interest requires tariffing of LEC central office space usage under physical collocation in order to prevent anticompetitive or discriminatory pricing. We conclude that we have statutory authority to impose such a requirement in the present circumstances. Our authority under title II of the Communications Act to require LECs to tariff central office space for physically collocated expanded interconnection is dependent on whether such a service is both a "communications service" and provided on a "common carrier" basis. We conclude that central office space for physical collocation satisfies both criteria.

D. LEC Special Access Offerings

1. Pricing and Rate Structure Flexibility for LEC Special Access Offerings

35. We believe that, with mandatory expanded interconnection, the Tier 1 LECs should be allowed greater freedom to adjust their rates to reflect traffic-density-related cost differences. We will therefore change our rules to expand the LECs' flexibility in responding to competition. In particular, we will allow LECs with operational expanded interconnection offerings to implement a system of traffic density-related rate zones to bring special access rates more in line with costs. An expanded interconnection offering will be deemed to be operational for this purpose when an interconnector has taken the expanded interconnection cross-connect element. We believe that this is a reasonable point for permitting implementation of additional LEC pricing flexibility since the interconnector will first become able to serve customers when they take the cross connect. Use of expanded interconnection under the interim expanded interconnection tariffs required to be filed by certain LECs does not satisfy this requirement, however. LECs that voluntarily offer expanded interconnection in compliance with the standards adopted in the Order are eligible to implement the pricing flexibility measures we are adopting.

36. We will continue to require that rates for special access services subject to competition be averaged within each zone, but we will permit rates for such services to differ between zones. A service will be deemed subject to competition if interconnectors have provided service of that type over their own circuits using expanded interconnection. For this limited purpose, interconnector resale of LEC transmission services will not be considered to constitute competition. Under this definition, we deem DS1 and DS3 special access services to be subject to competition. LECs may, by an appropriate showing, demonstrate that additional special access services are subject to competition.

37. Each LEC may establish a number of density pricing zones within each existing study area, assigning each of their central offices to one of the zones. While we are not limiting the number of zones, LEC density pricing zone plans proposing to establish more than three zones shall be subject to increased scrutiny and must include careful justification of the number of zones proposed. Channel terminations and other special access services should be assigned to the central office to which they are connected for purposes of defining zones. Interoffice facilities between central offices in different zones should be assigned to the highest priced zone containing one of the central offices. Thus, interoffice mileage charges for service between central offices in

different zones shall be rated as if the interoffice facilities were entirely within the highest priced of the zones. If they wish, LECs may use larger units, such as exchange areas, rather than central offices, in creating this system of rate zones.

38. In filing such a proposal, LECs are to make a showing that the assignment of central offices to each of the zones reflects cost-related characteristics, such as traffic density or some measure of traffic through each office. In classifying central offices, we require that the LECs consider factors such as the density of total interstate traffic, which should reflect cost patterns more accurately than a narrower segment of traffic, such as special access alone. We require LECs to develop a method to account for both special access capacity (for which traffic is generally not measured) and switched traffic (which is typically measured). Geographic contiguity may also be considered in order to reflect exchange area boundaries or communities of interest, but should be a less important factor.

39. The LECs are to file and obtain approval of their density pricing zone plans in advance of filing tariff changes implementing these measures. The LECs should file illustrative tariff pages when they file their density pricing zone plans, but the illustrative tariffs need not reflect rate levels. LECs that file consolidated access tariffs for multiple study areas may also file consolidated density pricing tariff revisions applicable to all of their study areas that qualify for implementation of these measures (implementation of density pricing plans would still be limited to those study areas in which expanded interconnection is operational).

40. Once the pricing plans have been approved, the LECs may file implementing tariff revisions on 31 days notice. In order to reduce administrative burdens and the potential that density zone tariffs could become effective prematurely, the LECs are not to file these tariff revisions more than 31 days before their interconnection offering becomes operational. It shall be the responsibility of the LEC to extend the tariff effective dates as necessary to ensure that its density pricing zone tariff does not become effective before an interconnector has actually taken the expanded interconnection cross-connect element in the affected study area.

41. We will use the framework of the existing price cap system to implement the density pricing zone system for price cap LECs. For such LECs, we will create new price cap subindexes to reflect the new rate zones for DS1, DS3, and any other special access services that may be deemed subject to competition. For example, for a LEC that creates three rate zones, we will create three new subindexes for DS1 services—one each for the high, medium, and low density zones—and three separate subindexes for DS3 services, one for each of the zones. The initial DS1 and DS3 subindexes for each of the zones would be set at the level of the pre-existing DS1 and DS3 subindexes, respectively.

42. The rate bands applicable to the new, separate subindexes would employ a 5% upper band, while using a lower band of 10%. Thus, under this system, a LEC could lower prices for DS1 services in the highest density zone by as much as 10% per year adjusted for the price cap index (PCI), and could raise prices for DS1 services in the lowest density zone by no more than 5% per year adjusted for the PCI, without triggering any of the additional cost justification or advance notice requirements contained in the price cap rules. As with all bands in the price cap system, compliance with these pricing bands will be determined based on the weighted average of the rates for LEC services included within each subindex.

43. The weighted average for rates in all of the zones must continue to fall within the existing 5% overall pricing bands applicable to the existing DS1 and DS3 subindexes, as well as those pricing bands applicable to the other service categories within the special access basket. Thus, the LEC could not lower the weighted average of all DS1 rates by more than 5% per year adjusted for the PCI without additional cost justification.

44. We are creating a similar system for LECs subject to the rate of return rules that implement expanded interconnection. In the case of such LECs, we will permit the rates for the same services in different zones to diverge by a maximum of 15% in the first year that these tariff revisions are in effect, 30% in the second year, and 45% in the third year. We will monitor this system of pricing flexibility closely, and we will review its application to both price cap and rate of return LECs in the autumn of 1995.

2. Volume and Term Discounts

45. We conclude that hubbing and ratcheting arrangements are reasonable means of permitting customers flexibility in structuring their leased special access networks, and allowing the LECs to engineer their access networks efficiently using higher capacity facilities. We also conclude that reasonable volume and term discounts can be a useful and legitimate means of pricing special access services to recognize the efficiencies associated with larger volumes of traffic and the certainty of longer term deals.

46. The largest of the volume and term discounts cited by Metropolitan Fiber Systems, Inc. (MFS), some of which may result in total discounts of more than 70%, however, may be anticompetitve or raise questions of discrimination. The record before us now does not permit us to make definitive determinations concerning the lawfulness of specific discounts. In light of the growing emergence of access competition, we conclude that the largest of the discounts offered by the LECs warrant some additional inquiry to help us determine whether we should promulgate guidelines requiring cost justification of any subset of LEC volume and term discounts. Accordingly, we direct the Chief, Common Carrier Bureau to require the submission of cost support data for some of the largest existing discounts.

47. The existence of certain long-term access arrangements also raises potential anticompetitve concerns since they tend to "lock up" the access market, and prevent customers from obtaining the benefits of the new, more competitive interstate access environment. To address this, we conclude that certain LEC customers with long-term access arrangements should be permitted to take a "fresh look" to determine if they wish to avail themselves of a competitive alternative. This right will be limited to customers with LEC arrangements for terms in excess of three years entered into on or before the date of adoption of the Order. The right to end a long-term arrangement at a specific central office will exist for a period of 90 days from the date the first expanded interconnection arrangement is operational in that central office. This does not give a LEC the right to cancel a long-term arrangement that a customer wishes to continue.

48. If a party chooses to terminate a long-term arrangement within this period, the termination charge will be limited. Notwithstanding any termination charges provided in the applicable LEC tariffs, the LEC may not charge more than the difference between (1) the amount the customer has already paid and (2) any additional charges that the customer would have paid for service if the customer had taken a shorter term offering corresponding to the term actually used, plus interest at the prime rate. When the actual service period does not precisely coincide with an existing service term, the charges for the service used are to

be calculated at the rates applicable at the time the service term began, for the longest term commitment that the customer would have completed. The charge for the period beyond that term is to be calculated pro rata at the rates applicable to the completed term. Interest rates are to be adjusted to reflect changes in the prime rate and will apply to the balances due under the recalculation as they would have accrued over time.

49. We also conclude that non-recurring reconfiguration charges must be applied in a neutral manner that does not differentiate based on whether the customer chooses to use a CAP or LEC facilities for special access service unless there are specific, identifiable cost differences. Absent even-handed treatment, non-recurring reconfiguration charges could constitute a serious barrier to competitive entry.

3. Distance Sensitivity

50. Based on the current record, we see no reason to restrict, as a general proposition, the degree of distance sensitivity in LEC rates for different special access services. We do not believe that the record supports CompTel's proposal to require that LEC rates for all special access service categories be no more distance sensitive than DS3, the least distance sensitive special access service. We conclude that it would not be in the public interest to mandate the degree of distance sensitivity that LEC special access rates should reflect, and we decline to do so.

V. Other Issues

A. Preemption

51. Based on the record before us, we do not believe that there is a need for preemption of existing state programs in order to permit initial implementation of expanded interconnection for interstate special access. If an LEC offers both interstate and intrastate expanded interconnection using either a physical or virtual collocation regime, however, it should provide collocation in a manner that satisfies both federal and state requirements.

52. We also expect the LECs and interconnectors to negotiate reasonable mechanisms to avoid double payment for LEC expanded interconnection facilities used for both state and interstate expanded interconnection. For example, if under a state physical collocation program, an interconnector has paid the full cost of space preparation, we do not expect additional interstate charges to be applied unless further work is required to permit interstate expanded interconnection.

B. Implementation Schedule

1. Expanded Interconnection Tariffs

53. We conclude that the Tier 1 LECs should be required to implement special access expanded interconnection as soon as possible. We require these LECs to file tariffs for expanded interconnection for DS1 and DS3 service within 120 days from the date of release of the Order without waiting for requests for interconnection. The tariffs are to be filed to be effective on 90 days notice. The tariffs are to make physical collocation generally available under uniform terms and conditions in all end offices and serving wire centers, as well as any subject remote nodes, although, as explained in more detail above, rates for items such as floor space, power, and environmental conditioning may vary by office. The tariffs are also to make virtual collocation generally available in all study areas where intrastate virtual collocation arrangements are provided and in any study areas where the LEC has negotiated virtual collocation arrangements with interconnectors. Any negotiated virtual collocation arrangements are to be be made available to all interested parties throughout the study area, pursuant to the tariffing requirements described above.

54. Once the initial expanded interconnection tariffs are filed, the LECs are to file tariffs to provide for the expanded interconnection of fiber optic and microwave special access services other than DS1 and DS3 service within 45 days of receipt of a bona fide request, to be effective upon 45 days notice. If a bona fide request for such services is made before the date of filing the initial expanded interconnection tariffs, the LECs are to make every effort to include those services in their initial expanded interconnection tariff filings. Further tariff revisions to cover additional services that could not be included in the initial tariff filing due to the lack of advance notice, are to be filed as soon as possible.

2. Exemptions

55. If a LEC seeks an exemption from the general requirement that physical collocation be made available with respect to any specific central offices based on space availability, it should file a petitions for such an exemption at the same time that it files its initial tariffs. To facilitate tariff implementation, the initial tariff filing need not offer physical collocation in individual offices for which such exemption petition have been filed. In the event that petitions for exemption based on space availability are denied with respect to any central offices, the LEC is to file tariff revisions within 14 days, effective on 15 days notice, to make physical collocation available in those offices. This procedure will not apply to the extent that it would make the tariff provisions for the offices involved effective prior to the effective date of the remainder of the expanded interconnection tariff filing. In such cases, the necessary tariff revisions are to be effective at the same time as the remainder of the expanded interconnection filing.

56. The initial tariffs are to offer physical collocation in all offices not covered by an exemption petition based on space availability, unless an exemption based on state regulation has already been granted. Petitions for exemption based on state regulatory grounds that are filed on or before the date of the initial expanded interconnection tariff filings will be acted upon within the tariff review period whenever possible. In such cases, the initial tariff filing is also to contain the virtual collocation offering that the LEC would implement if its exemption petition based on state regulation is granted. If the exemption is granted, the LEC will be permitted to withdraw its physical collocation offering for the affected offices prior to its effective date, and implement the virtual collocation offering instead.

3. Interim Tariffs

57. In addition, we wish to avoid unnecessarily delaying the benefits of interstate special access expanded interconnection in states where interconnection arrangements for intrastate special access already exist. Therefore, we require those LECs with existing intrastate expanded interconnection arrangements to file on an expedited basis federal tariffs allowing interstate special access traffic to be carried over existing state arrangements pursuant to state rates except for the contribution charge. As a result, the LECs will not be allowed to include explicit or implicit contribution charges in these interim federal tariffs. Accordingly, we waive the general requirements in §§ 61.38 and 61.49(g)–(i) of our rules, 47 CFR 61.38 and 61.49(g)–(i), that tariffs for new services be filed with cost support data, with respect to these interim expanded interconnection tariffs.

58. The LECs subject to this requirement—Central Telephone Co. of Illinois, Illinois Bell Telephone Co., New England Telephone and Telegraph Co., New York Telephone Co., Pacific Bell,

and Rochester Telephone Co.—are to file these interim tariffs within 30 days of release of the Order to be effective on 21 days notice. Given the relatively limited administrative burdens that this requirement places on these LECs and the benefits of avoiding further delay in the implementation of interstate expanded interconnection, we conclude that good cause exists to make compliance with this requirement effective less than 30 days from publication of the Order in the Federal Register. This requirement will also apply to Bell Telephone Co. of Pennsylvania (Bell of Pennsylvania) in the event that the Pennsylvania Public Utilities Commission allows the intrastate expanded interconnection tariff that the company filed on October 1, 1992 (or a modified version of that tariff) to go into effect within 90 days of the release of the Order. In that case, Bell of Pennsylvania is to file its interim interstate tariff within 21 days of the effective date of the Pennsylvania tariff, to be effective on 21 days notice.

4. Reporting Requirements

59. Finally, we believe that information on the implementation of special access expanded interconnection, and on resulting developments in the interstate access marketplace, is important. Accordingly, we require the seven Regional Bell Operating Companies and GTE to file reports that identify which parties are using expanded interconnection in their service territories and the offices in which they are interconnected two and four years after their initial interstate expanded interconnection tariffs take effect. Based on the information contained in these reports, we will decide whether to require similar reports in the future.

C. Dispute Resolution Procedures

60. We resolve a number of implementation issues in the Order, placing various specific requirements on the LECs. We also recognize that certain implementation issues will be resolved in the tariff review process. Thus, we believe that there will be relatively few additional implementation issues to be resolved after the expanded interconnection tariffs go into effect. We conclude that neither the development of specific, detailed dispute resolution procedures nor the designation of a formal ombudsman or task force is necessary.

VI. Procedural Matters

A. Regulatory Flexibility Act

61. In the Notice of Proposed Rulemaking in this proceeding, we certified that the proposed rule changes related to expanded interconnection would apply only to carriers providing interstate access transmission services, which are large corporations or affiliates of such corporations, and that the Regulatory Flexibility Act of 1980 therefore did not apply. Neither the Chief Counsel for Advocacy of the Small Business Administration nor any other commenting party disagreed with our analysis. The Secretary shall send a copy of this Report and Order, including the certification, to the Chief Counsel for Advocacy of the Small Business Administration in accordance with section 605(b) of the Regulatory Flexibility Act, Public Law 96–354, 94 Stat. 1164, 5 U.S.C. 601 *et seq.*

B. Paperwork Reduction

62. Public reporting burden for this collection of information is estimated as follows: for tariff filings, including supporting information, exemption requests, and space surveys, average range from 249.75 to 1,874.75 hours per response; and for the informational showings on density pricing zones, average 200 hours per response. These estimates include 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 this burden estimate or any other aspect of this collection of information, including suggestions for reducing the burden, to the Federal Communications Commission, Office of Managing Director, Paperwork Reduction Project (OMB Control #3060–0298), Washington, DC 20554 and to the Office of Management and Budget, Paperwork Reduction Project (OMB Control #3060–0298), Washington, DC 20503.

VII. Ordering Clauses

63. Accordingly, *it is ordered* That pursuant to authority contained in Sections 1, 4(i), 201–205 and 214(d) of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154, 201–205 and 214(d), parts 61, 64, 65 and 69 of the Commission's Rules are amended as set forth below.

64. *It is further ordered* That the policies, rules, and requirements set forth herein are adopted.

65. *It is further ordered* That the Chief, Common Carrier Bureau is delegated the authority specified herein to act upon implementation details pertaining to expanded interconnection.

66. *It is further ordered* That the policies, rules, and requirements adopted herein shall be effective 90 days after publication in the Federal Register, except for our requirement, which shall be effective 30 days from release of the Order, for the filing of interim expanded interconnection tariffs.

67. *It is further ordered* That the Motion of the United States Department of Justice for Leave to File Reply Comments Out of Time and the Motion of the Association for Local Telecommunications Services for Leave to File Supplemental Comments Out of Time are granted.

List of Subjects

47 CFR Parts 61 and 64

Communications common carriers, Reporting and recordkeeping requirements, Telephone.

47 CFR Part 65

Administrative practice and procedure, Communications common carriers, Reporting and recordkeeping requirements, Telephone.

47 CFR Part 69

Communications common carriers, Reporting and recordkeeping requirements, Telephone.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

Amendatory Text

Parts 61, 64, 65, and 69 of Title 47 of the Code of Federal Regulations are amended as follows:

PART 61—TARIFFS

1. The authority citation for part 61 continues to read as follows:

Authority: Sec. 4, 48 Stat. 1066, as amended; 47 U.S.C. 154. Interpret or apply sec. 203, 48 Stat. 1070; 47 U.S.C. 203.

2. Section 61.38 is amended by adding paragraphs (b)(3) and (b)(4), to read as follows:

§ 61.38 Supporting information to be submitted with letters of transmittal.

* * * * *

(b) * * *

(3) For a tariff filing that introduces or changes a contribution charge for special access and expanded interconnection, as defined in § 69.122 of this chapter, the carrier must submit information sufficient to establish that the charge has been calculated in a manner that complies with the

Commission order authorizing the contribution charge.

(4) For a tariff that introduces a system of density pricing zones for special access, as described in § 69.123 of this chapter, the carrier must, before filing its tariff, submit a density pricing zone plan including, *inter alia*, documentation sufficient to establish that the system of zones reasonably reflects cost-related characteristics, such as the density of total interstate traffic in central offices located in the respective zones, and receive approval of its proposed plan.

* * * * *

3. Section 61.47 is amended by redesignating paragraph (h) as paragraph (h)(1) and adding new paragraph (h)(2) to read as follows:

§ 61.47 Adjustments to the SBI; pricing bands.

* * * * *

(h)(1) * * *

(2) In addition to the requirements of paragraph (h)(1) of this section, those local exchange carriers subject to price cap regulation that have established density pricing zones pursuant to § 69.123 of this chapter shall use the methodology set forth in paragraphs (a) through (d) of this section to calculate separate subindexes in each zone for DS1 services, DS3 services, and such other special access services that the Commission may designate by order. Notwithstanding paragraph (e) of this section, the annual pricing flexibility for each of these subindexes shall be limited to an annual increase of five percent or an annual decrease of ten percent, relative to the percentage change in the PCI for the special access services basket, measured from the last day of the preceding tariff year.

4. Section 61.49 is amended by revising the introductory text of paragraph (h), and by adding new paragraphs (i), (j), and (k), to read as follows:

§ 61.49 Supporting information to be submitted with letters of transmittal for tariffs of carriers subject to price cap regulation.

* * * * *

(h) Each tariff filing by a local exchange carrier that introduces a new service that will later be included in a basket, or that introduces or changes the rates for connection charge subelements for expanded interconnection, as defined in § 69.121 of this chapter, must also be accompanied by:

* * * * *

(i) Each tariff filing submitted by a local exchange carrier subject to price cap regulation that introduces or changes the rates for connection charge subelements for expanded interconnection, as defined in § 69.121 of this chapter, must be accompanied by cost data sufficient to establish that such charges will not recover more than a just and reasonable portion of the carrier's overhead costs.

(j) For a tariff filing that introduces or changes a contribution charge for special access and expanded interconnection, as defined in § 69.122 of this chapter, the carrier must submit information sufficient to establish that the charge has been calculated in a manner that complies with the Commission order authorizing the contribution charge.

(k) For a tariff that introduces a system of density pricing zones for special access, as described in § 69.123 of this chapter, the carrier must, before filing its tariff, submit a density pricing zone plan including, *inter alia*, documentation sufficient to establish that the system of zones reasonably reflects cost-related characteristics, such as the density of total interstate traffic in central offices located in the respective zones, and receive approval of its proposed plan.

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, 201–205, 214(d), and 220, 48 Stat. 1066, as amended; 47 U.S.C. 151, 154, 201–205, 214(d), and 220, unless otherwise noted. Interpret or apply secs. 1, 4, 201–205, 214(d), 218, 220, 225, 48 Stat. 1070, as amended, 1077; 47 U.S.C. 151, 154, 201–205, 214(d), 218, 220, and 225 unless otherwise noted.

2. Subpart N is added to part 64 to read as follows:

Subpart N—Expanded Interconnection

Sec.

64.1401 Expanded interconnection.
64.1402 Rights and responsibilities of interconnectors.

Subpart N—Expanded Interconnection

§ 64.1401 Expanded interconnection.

(a) Every local exchange carrier that is classified as a Class A company under § 32.11 of this chapter and that is not a National Exchange Carrier Association interstate tariff participant, as provided in part 69, subpart G of this chapter, shall offer expanded interconnection for interstate special access services at their central offices that are classified as end offices or serving wire centers, and at other rating points used for interstate special access.

(b) The local exchange carriers specified in paragraph (a) of this section shall offer expanded interconnection for interstate special access services through physical collocation, except that they may offer virtual collocation instead of physical collocation, upon approval by the Commission, under the following circumstances:

(1) At an individual central office, if that office lacks physical space to accommodate physical collocation;

(2) For new customers at an individual central office, if the space available for physical collocation has been exhausted. Local exchange carriers shall not withdraw their offering of physical collocation for existing customers due to space limitations, absent extraordinary circumstances; or

(3) In a state, if the state legislature or public utility regulatory agency issues a formal decision, after proceedings allowing all interested parties a reasonable opportunity to be heard, in favor of virtual collocation rather than physical collocation for intrastate expanded interconnection, or in favor of allowing local exchange carriers to choose which form of collocation to use for intrastate expanded interconnection. Exemption requests based on such final state decisions must be submitted by the date for filing initial interstate special access expanded interconnection tariffs.

(c) in addition to the obligations imposed by paragraph (b) of this section, the local exchange carriers specified in paragraph (a) of this section shall offer expanded interconnection for interstate special access services through virtual collocation in any study area used for the purposes of jurisdictional separations in which:

(1) A carrier is providing intrastate special access expanded interconnection through virtual collocation; or

(2) A carrier negotiates interstate special access virtual collocation arrangements with one or more interconnectors.

(d) For the purposes of this subpart, physical collocation means an offering that enables interconnectors:

(1) To place their own equipment needed to terminate basic transmission facilities, including optical terminating equipment and multiplexers, within or upon the local exchange carrier's central office buildings;

(2) To use such equipment to connect interconnectors' fiber optic systems or microwave radio transmission facilities (where reasonably feasible) with the local exchange carrier's equipment and facilities used to provide interstate special access services;

(3) To enter the local exchange carrier's central office buildings, subject to reasonable terms and conditions, to install, maintain, and repair the equipment described in paragraph (d)(1) of this section; and

(4) To obtain reasonable amounts of space in central offices for the equipment described in paragraph (d)(1) of this section, allocated on a first-come, first-served basis.

(e) For the purposes of this subpart, virtual collocation means an offering that enables interconnectors:

(1) To designate or specify equipment needed to terminate basic transmission facilities, including optical terminating equipment and multiplexers, to be located within or upon the local exchange carrier's central office buildings, and dedicated to such interconnectors' use;

(2) To use such equipment to connect interconnectors' fiber optic systems or microwave radio transmission facilities (where reasonably feasible) with the local exchange carrier's equipment and facilities used to provide interstate special access services; and

(3) To monitor and control their communications channels terminating in such equipment.

(f) Under both physical collocation offerings and virtual collocation offerings for expanded interconnection of fiber optic facilities, local exchange carriers shall provide:

(1) An interconnection point or points at which the fiber optic cable carrying an interconnectors' circuits can enter each central office, provided that the local exchange carrier shall designate interconnection points as close as reasonably possible to each central office; and

(2) At least two such interconnection points at any central office at which there are at least two entry points for the local exchange carrier's cable facilities.

§ 64.1402 Rights and responsibilities of interconnectors.

(a) For the purposes of this subpart, an interconnector means a party taking expanded interconnection offerings. Any party shall be eligible to be an interconnector.

(b) Interconnectors shall have the right, under expanded interconnection, to interconnect their fiber optic systems and, where reasonably feasible, their microwave transmission facilities.

(c) Interconnectors shall not be allowed to use interstate special access expanded interconnection offerings to connect their transmission facilities with the local exchange carrier's interstate switched services.

PART 65—INTERSTATE RATE OF RETURN PRESCRIPTION PROCEDURES AND METHODOLOGIES

1. The authority citation for Part 65 continues to read as follows:

Authority: Secs. 4, 201, 202, 203, 205, 218, 403, 48 Stat. 1066, 1072, 1077, 1094, as amended, 47 U.S.C. 154, 201, 202, 203, 205, 218, 403.

2. Section 65.702(b) is amended by revision the second sentence to read as follows:

§ 65.702 Measurement of interstate services earnings.

* * * * *

(b) * * * The access service categories shall be: an aggregated category consisting of Special Access, § 69.113 of this chapter, Connection Charges for Expanded Interconnection, § 69.121 of this chapter, and Contribution Charges for Special Access and Expanded Interconnection, § 69.122 of this chapter; Common Line, §§ 69.104–69.105 of this chapter; and an aggregated category consisting of Line Termination, § 69.106 of this chapter, Intercept, § 69.108 of this chapter, Local Switching, § 69.107 of this chapter, Transport, §§ 69.111–69.112 of this chapter, and Information, § 69.109 of this chapter.

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PART 69—ACCESS CHARGES

1. The authority citation for Part 69 continues to read as follows:

Authority: Secs. 4, 201, 202, 203, 205, 218, 403, 48 Stat. 1066, 1070, 1072, 1077, 1094, as amended, 47 U.S.C. 154, 201, 202, 203, 205, 218, 403.

2. Section 69.4 is amended by revising the introductory text of paragraph (b) and adding paragraphs (e) and (f), to read as follows:

§ 69.4 Charges to be filed.

* * * * *

(b) Except as provided in subpart C of this part, in §§ 69.4 (c), (d), (e), and (f), and in § 69.118, the carrier's carrier charges for access service filed with this Commission shall include charges for each of the following elements:

* * * * *

(e) The carrier's carrier charges for access service filed with this Commission by the telephone companies specified in § 64.1401(a) of this chapter shall include an element for connection charges for expanded interconnection. The carrier's carrier charges for access service filed with this Commission by the telephone companies not specified in § 64.1401(a) of this chapter may include an element for connection charges for expanded interconnection.

(f) All telephone companies may implement a separate carrier's carrier tariff charge for the contribution charge element described in § 69.122, if authorized by the Commission by order.

3. Section 69.121 is added to subpart B to read as follows:

§ 69.121 Connection charges for expanded interconnection.

(a) Appropriate connection charge subelements shall be established for the use of equipment and facilities that are associated with offerings of expanded interconnection for special access services, as defined in part 64, subpart N of this chapter.

(1) A cross-connect subelement shall be established for charges associated with the cross-connect cable and associated facilities connecting the equipment owned by or dedicated to the use of the interconnector with the telephone company's equipment and facilities used to provide interstate special access services. Charges for the cross-connect subelement shall not be deaveraged within a study areas that is used for purposes of jurisdictional separations.

(2) Charges for subelements associated with physical collocation or virtual collocation, other than the subelement described in paragraph (a)(1) of this section, may reasonably differ in different central offices, notwithstanding § 69.3(e)(7).

(b) Connection charge subelements shall be computed based upon the costs associated with the equipment and facilities that are included in such subelements, including no more than a just and reasonable portion of the telephone company's overhead costs.

(c) Connection charge subelements shall be assessed upon all interconnectors that use the equipment or facilities that are included in such subelements.

4. Section 69.122 is added to subpart B to read as follows:

§ 69.122 Contribution charges for special access and expanded interconnection.

(a) Any contribution charge that the Commission may, by order, permit shall be calculated in a manner that complies with the Commission order authorizing the contribution charge.

(b) Any contribution charge shall be assessed on a per unit of capacity basis, upon parties that use expanded interconnection for special access and upon customers of similar special access services offered by the telephone company.

5. Section 69.123 is added to subpart B to read as follows:

§ 69.123 Density pricing zones for special access.

(a) Telephone companies may establish a reasonable number of density pricing zones within each study area that is used for the purposes of jurisdictional separations, in which at least one interconnector has taken the subelement of connection charges for expanded interconnection described in § 69.122(a)(1).

(b) Such a system of pricing zones shall be designed to reasonably reflect cost-related characteristics, such as the density of total interstate traffic in central offices located in the respective zones.

(c) Notwithstanding § 69.3(e)(7), telephone companies may charge rates for subelements of DS1, DS3, and such other special access services as the Commission may designate, that differ depending on the zone in which the service is offered, provided that the charges for any such service shall not be deaveraged within any such zone.

(1) A special access service subelement shall be deemed to be offered in the zone that contains the central office from which the service is provided.

(2) A special access service subelement provided to a customer between central offices shall be deemed to be offered in the highest priced zone that contains one of the central offices between which the service is offered.

(d)(1) Telephone companies not subject to price cap regulation may charge a rate for each service in the highest priced zone that exceeds the rate for the same service in the lowest priced zone by no more than fifteen percent of the rate for the service in the lowest priced zone during the period from the date that the zones are initially established through the following June 30. The difference between the rates for any such service in the highest priced zone and the lowest priced zone in a study area, measured as a percentage of the rate for the service in the lowest priced zone, may increase by no more than an additional fifteen percentage points in each succeeding year, measured from the rate differential in effect on the last day of the preceding tariff year.

(2) Telephone companies subject to price cap regulation may charge different rates for services in different zones pursuant to § 61.47(h) of this chapter.

[FR Doc. 92-28070 Filed 11-17-92; 8:45 am]

BILLING CODE 6712-01-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1037

[Ex Parte No. 502]

Bulk Grain and Grain Products—Loss and Damage Claims

AGENCY: Interstate Commerce Commission.

ACTION: Final rule.

SUMMARY: The Commission is removing obsolete regulations. These regulations apply to boxcar movements of bulk grain and grain products. Because these movements now are made primarily in covered hopper cars, these boxcar rules are no longer necessary.

EFFECTIVE DATE: November 18, 1992.

FOR FURTHER INFORMATION CONTACT: Joseph H. Dettmar, (202) 927-5660; [TDD for hearing impaired: (202) 927-5721].

SUPPLEMENTARY INFORMATION: On July 31, 1991, we published in the **Federal Register** an advance notice of proposed rulemaking (ANPR) [1] seeking comment on whether the rules in 49 CFR part 1037 [2] should be removed. Based on the comments received, we determined that, with two exceptions, the rules continue to serve a useful purpose and should be retained. The two exceptions, § 1037.2 (a) and (c), apply only to boxcar movements. The commenters uniformly stated that these sections are no longer needed because bulk grain and grain products now move primarily in covered hopper cars. In response, we subsequently issued a notice of proposed rulemaking (NPR) on July 15, 1992, and published it in the **Federal Register** [3] to invite further comment on whether these two sections should be removed.

The Kansas City Board of Trade (KCBT), the Association of American Railroads (AAR), and the Kansas Grain and Feed Association (KGFA) filed comments. KCBT does not object to the removal of the boxcar rules. AAR supports their removal but reiterates its former arguments, made in its response to the ANPR, that all the part 1037 rules are obsolete and should be removed.[4] KGFA would only remove § 1037.2(c); it would preserve a portion of § 1037.2(a) by combining it with § 1037.2(b) to read as follows:

> A car is not in suitable condition for the transportation of bulk grain and grain products when it is defective. The rules prescribed in this part 1037 apply on shipments transported solely in railroad-owned and railroad-leased cars.

In support, KGFA notes that the covered hopper car fleet is aging and not being replaced. These cars assertedly will become more susceptible to loss and damage claims. KGFA suggests that the rules continue to provide, as a general standard, that any car, even a covered hopper car, is unsuitable if it is defective.

The requested modification is consistent with our intent in the NPR, to eliminate those portions of the loss and damages rules that relate exclusively to boxcars. Since there is merit to retaining a general standard applicable to all cars used to ship bulk grain and grain products and none of the other parties have specifically objected, we will adopt the requested modification. Accordingly, 49 CFR 1037.2(c) will be removed in its entirety as obsolete. The first portion of § 1037.2(a) will be added to § 1037.2(b) and that section will appear as new § 1037.2. The remainder of § 1037.2(a) will be removed as obsolete.

Pursuant to 5 U.S.C. 605(b), we conclude that this action will not have a significant economic impact on a substantial number of small entities. Our purpose is to eliminate unnecessary regulation. The economic impact on small entities, if any, will be to reduce regulatory burdens and is not likely to be significant within the meaning of section 605(b). Further, any economic impact of our action is not likely to be felt by a substantial number of small entities.

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

List of subjects in 49 CFR Part 1037

Claims, Grains, Railroads.

Decided: November 9, 1992.

By the Commission, Chairman Philbin, Vice Chairman McDonald, Commissioners Simmons, Phillips, and Emmett.

Sidney L. Strickland, Jr.,

Secretary.

For the reasons set forth in the preamble, title 49, chapter X, part 1037 of the Code of Federal Regulations is amended as follows:

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[1] 56 FR 36752 (August 1, 1991).

[2] Rules for the Handling of Bulk Grain and Grain products in Interstate Commerce, and the Filing, Investigation, and Disposition of Claims for Loss and Damage Incident Thereto, which Supersede the Rules Prescribed in Ex Parte No. 263, Loss and Damage Claims, 340 I.C.C. 515 (37 FR 20943).

[3] 57 FR 31488 (July 16, 1992).

[4] Because these arguments were unconvincing, we concluded that only the boxcar rules should be removed. AAR has not presented reasons to justify reconsidering this conclusion.

PART 1037—RULES FOR THE HANDLING OF BULK GRAIN AND GRAIN PRODUCTS IN INTERSTATE COMMERCE, AND THE FILING, INVESTIGATION, AND DISPOSITION OF CLAIMS FOR LOSS AND DAMAGE INCIDENT THERETO, WHICH SUPERSEDE THE RULES PRESCRIBED IN EX PARTE NO. 263, LOSS AND DAMAGE CLAIMS, 340 I.C.C. 515 (37 FR 20943)

1. The authority citation for part 1037 is revised to read as follows:

Authority: 49 U.S.C. 10321.

2. Section 1037.2 is revised to read as follows:

§ 1037.2 Cars.

A car is not in suitable condition for the transportation of bulk grain and grain products when it is defective. The rules prescribed in this part 1037 apply on shipments transported solely in railroad-owned and railroad-leased cars.

[FR Doc. 92-27958 Filed 11-17-92; 8:45 am]
BILLING CODE 7035-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 216

[Docket No. 901191-2247]

Taking and Importing of Marine Mammals; Yellowfin Tuna Importation

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

ACTION: Final rule.

SUMMARY: The Assistant Administrator for Fisheries, NOAA (Assistant Administrator), is issuing a final rule to provide a provision for consideration and granting of an affirmative finding under the yellowfin tuna importation regulations to a nation that prohibits its vessels from intentionally setting on marine mammals in the course of harvesting yellowfin tuna by purse seine in the eastern tropical Pacific Ocean (ETP). With an affirmative finding, yellowfin tuna and tuna products from the harvesting nation can be imported into the United States. In addition, the Assistant Administrator is amending regulatory text to remove duplicative and erroneous material, redesignate paragraphs with duplicative numbers and to reorganize the paragraphs to clarify understanding and comprehension.

EFFECTIVE DATES: November 18, 1992.

ADDRESSES: Copies of the Environmental Assessment are available from the Director, Southwest Region, National Marine Fisheries Service, NOAA, 501 W. Ocean Boulevard, suite 4200, Long Beach, CA 90802-4213.

FOR FURTHER INFORMATION CONTACT: Gary Matlock, Acting Director, Southwest Region, NMFS. Phone: (310) 980-4001.

SUPPLEMENTARY INFORMATION:

Description of Interim Rule

Regulations promulgated as an interim rule on November 16, 1990 (55 FR 47880) provided, consistent with the purposes and policies of the Marine Mammal Protection Act (16 U.S.C. 1361 *et seq.*, the MMPA), specific criteria for issuing initial and subsequent affirmative findings to a tuna harvesting nation that implements a prohibition against intentional purse seine sets on marine mammals by its vessels. The nation must have an acceptable compliance program that uses observers in a program approved by the Assistant Administrator, or under the direction of the Inter-American Tropical Tuna Commission (IATTC), to monitor every fishing trip of purse seine vessels greater than 400 short tons (362.8 mt) carrying capacity. The nation must submit statements by the observers, verified by the IATTC, within 30 days after completion of each trip, certifying that no intentional sets were made on marine mammals during the trips. The nation must also submit a list of purse seine vessels greater than 400 short tons (362.8 mt) carrying capacity when initially seeking a finding under this regulation, and list of changes to that list within 30 days of when a change occurs. For an initial affirmative finding under this provision, the comparable rate tests are deemed to be met.

Additionally, for a renewal of an affirmative finding, an annual report must also be submitted to the Assistant Administrator for review; the report must include (1) the total number, of observed trips; (2) the percent observer coverage of all purse seine fishing trips; (3) the total number; if any, of observed purse seine sets on marine mammals; and (4) the number, by species, of any marine mammals killed or seriously injured, if any. These data will be reviewed for compliance with this rule and, if necessary, comparability to U.S. mortality rates.

If a vessel is found to have set on marine mammals as documented by an observer, the Assistant Administrator will immediately impose a 180-day probationary period on the harvesting nation. If, during the probationary period, there are any sets on marine mammals, the Assistant Administrator will impose a ban on the importation of yellowfin tuna and tuna products into the United States from the harvesting nation. This embargo will remain in force until the harvesting nation requests reconsideration and obtains an affirmative finding. The Assistant Administrator will make an affirmative finding upon request for reconsideration only if (1) the harvesting nation provides documentation that there have not been any intentional purse seine sets on marine mammals for a minimum period of 90 days preceding the request for reconsideration; and (2) the comparability tests of the current rule are met for total marine mammal mortality (kill-per-set rate); and (3) the mortality percentage limitations for eastern spinner and coastal spotted dolphin are met.

If a harvesting nation's purse seine vessel is determined to have left port on a fishing trip in the ETP without an approved observer, the Assistant Administrator will impose a 1-year probationary period on the harvesting nation, effective upon the date the vessel returns to port to unload. If, during that probationary period, a second purse seine vessel returns to port to unload tuna and it is determined that an approved observer was not aboard the vessel during a trip to the ETP, the Assistant Administrator will immediately revoke the harvesting nation's affirmative finding. Although there is no provision for a reconsideration of a revocation of a finding for a failure to impose 100-percent observer coverage, harvesting nations may apply for reconsideration under the general findings provision (50 CFR 216.24(e)(5)(v)) of the regulations.

Comments on the Interim Final Rule

An interim final rule was published in the **Federal Register** on November 16, 1990 (55 FR 47880) without prior opportunity for public comment and without a delayed effectiveness period because it involved a foreign affairs function of the United States. A delay in establishing that rule would have had an adverse effect on any foreign nation wishing to qualify under the rule because they would not have had sufficient time before the expiration of their current findings to enact the necessary legislation to comply with the rule. A public comment period was provided until January 2, 1991. No comments were received on the interim final rule.

Technical Changes

The interim final rule redesignated paragraphs (e)(5)(vii), (viii), and (ix) as paragraphs (e)(5)(xii), (xiii) and (xiv) and added new paragraphs (e)(5)(vii), (viii), (ix), (x) and (xi) to 50 CFR 216.24 which resulted in unintended duplicative paragraphs (e)(5) (x) and (xi). This error, which is corrected in this final rule, also resulted in an interruption in the continuity of the text.

This final rule also removes existing paragraph (e)(5)(xv) which, although it duplicated material found in existing paragraph (e)(5)(viii) [which this final rule places in paragraph (e)(5)(ix)], is no longer in agreement with that paragraph which was itself amended on October 8, 1991 (56 FR 50672). For reasons more fully explained in its preamble, that rule should have, but did not, remove or modify this paragraph because it was not consistent with the rulings of the U.S. District Court for the Northern District of California.

Finally, in order to clarify understanding, this final rule revises the text currently in 50 CFR 216.24(e)(5)(vi)–(xv) to reorganize the provisions, makes appropriate cross-reference changes to reflect the revisions, and adds titles to paragraphs. This final rule makes no changes to the substance of the regulatory text of the interim final rule; the revisions are merely corrections and clarifications.

Classification

The Assistant Administrator has determined that the procedural changes to be made at 50 CFR 216.24(e) by this rule will not have a significant impact on the human environment. This determination is based on the impact analysis provided in the Environmental Assessment (EA) prepared for the interim final rule on yellowfin tuna imports published on March 7, 1989 (54 FR 9438). Therefore, an environmental impact statement is not required. The EA is available upon request (See **ADDRESSES**).

The Assistant Administrator has determined that this final rule is not subject to review under Executive Order 12291 because it involves a foreign affairs function of the United States (section 1(a)(2)). For the same reason, in accordance with section 4(d) of the President's January 28, 1992, Directive, this action is exempt from the President's moratorium on regulatory actions. Also, because notice-and-comment rulemaking is not required by law for this rule, preparation of a regulatory flexibility analysis is not required by the Regulatory Flexibility Act and none was prepared.

This final rule does not contain a collection-of-information requirement subject to the Paperwork Reduction Act. The information that is required will be collected by professional observers from an international program and transmitted to the U.S. Government by the harvesting nation's government. Therefore, this rule does not impose additional reporting burdens on individuals or industries. This rule does not contain policies with federalism implications sufficient to warrant preparation of a federalism assessment under E.O. 12612.

List of Subjects in 50 CFR Part 216

Administrative practices and procedure, Imports, Indians, Marine mammals, Penalties, Reporting and recordkeeping requirements, Transportation.

Dated: November 12, 1992.

Nancy Foster,

Acting Deputy Assistant Administrator for Fisheries, National Marine Fisheries Services.

For reasons set forth in the preamble, 50 CFR part 216 is amended as follows:

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

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

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

2. Section 216.24 is amended by revising the introductory text to paragraph (e)(5)(i), paragraphs (e)(5)(vi) through (e)(5)(xv) and adding a new paragraph (e)(5)(xvi) to read as follows:

§ 216.24 Taking and related acts incidental to commercial fishing operations.

* * * * *

(e) * * *

(5) * * *

(i) Any tuna or tuna products in the classifications listed in paragraph (e)(2)(i) of this section, from harvesting nations whose vessels of greater than 400 short tons (362.8 mt) carrying capacity operate in the ETP tuna purse seine fishery as determined by the Assistant Administrator, may not be imported into the United States unless the Assistant Administrator makes an affirmative finding under either paragraph (e)(5)(v), (e)(5)(viii) or (e)(5)(x) of this section and publishes the finding in the **Federal Register** that:

* * * * *

(vi) *Period of validity.* A finding is valid only for the period for which it was issued and may be terminated before the end of the year if the Assistant Administrator finds that the nation no longer has a comparable regulatory program or kill rate.

(vii) *Reconsideration of finding.* The Assistant Administrator may reconsider a finding upon a request from and the submission of additional information by the harvesting nation, if the information indicates that the nation has met the requirements under paragraph (e)(5)(v) of this section. For a harvesting nation whose marine mammal mortality rate was found to exceed the acceptable levels prescribed in paragraphs (e)(5)(v)(E), (e)(5)(v)(F), or (e)(5)(v)(G) of this section, the additional information must include data collected by an acceptable observer program, which must demonstrate that the nation's fleet marine mammal mortality rate improved to the acceptable level during the period submitted for comparison, which must include, at a minimum, the most recent:

(A) Twelve months of observer data if the species composition rate prescribed by paragraph (e)(5)(v)(G) of this section was not acceptable; or

(B) Six months of observer data if the average kill-per-set rate prescribed by paragraph (e)(5)(v)(E) of this section was not acceptable.

(viii) *Application for finding for non-marine-mammal intentional sets.* The Assistant Administrator's determination on a nation's application for a finding will be announced and published in the **Federal Register.** A harvesting nation which has implemented a regulatory program that prohibits the intentional setting of any purse seine net to encircle marine mammals and desires an initial finding under these regulations that will allow it to import into the United States those products listed in paragraph (e)(2)(i) of this section must provide the Assistant Administrator with the following:

(A) Documentary evidence establishing that its regulatory program includes:

(*1*) A law prohibiting the intentional setting of purse seine nets on marine mammals (a copy of the law must be submitted);

(*2*) A requirement that a certificate from an observer be obtained within 30 days of the completion of each and every trip of the nation's purse seine vessels greater than 400 short tons (362.8 mt) carrying capacity, stating that the observer was aboard the vessel during the entire trip and that there were no intentional purse seine sets on marine mammals; and

(B) A complete list of the nation's vessels and any certified charter vessels of greater than 400 short tons (362.8 mt) carrying capacity which purse seine for

yellowfin tuna in the ETP, indicating the status of each vessel (i.e., actively fishing in the ETP, in port for repairs, etc.), and a list of changes to this fleet within 30 days when changes occur.

(ix) *Application for renewal of finding for non-marine-mammal intentional sets.* A harvesting nation, which has in effect an affirmative finding under this section, may request a renewal of its finding for the subsequent calendar year by providing the Assistant Administrator an annual report by November 1, covering the previous October 1 to September 30 period, which includes the following:

(A) Vessel summary data, to include:

(*1*) The total number of observed trips;

(*2*) The percentage of all purse seine fishing trips that carried observers under a program approved by the Assistant Administrator;

(*3*) The total number, if any, of observed purse seine sets on marine mammals;

(*4*) A summary of the number and species, if any, of all marine mammals killed or seriously injured in intentional purse seine sets on marine mammals;

(*5*) A complete list of the nation's vessels and any certified charter vessels of greater than 400 short tons (362.8 mt) carrying capacity which purse seine for yellowfin tuna in the ETP, indicating the status of each vessels as of October 1;

(B) A summary, which copies of relevant laws, of any changes in the nation's laws or regulatory program regarding marine mammals for the purse seine fishery in the ETP; and

(C) A summary of any enforcement actions taken to ensure compliance with the nation's marine mammal protection laws.

(x) *Review of finding for non-marine-mammal intentional sets.* The Assistant Administrator will renew an affirmative finding obtained under paragraph (e)(5)(ix) of this section if:

(A) The harvesting nation has provided all of the information required by paragraph (e)(5)(ix) of this section and the conditions under which the original finding was made under paragraph (e)(5)(viii) of this section continue to exist; and

(B) Either 100-percent observer coverage is provided for all purse seine vessels as required by paragraph (e)(5)(viii)(A(*2*) of this section; or the harvesting nation is in a probationary status in accordance with paragraph (e)(5)(xi)(B)(*1*) of this section; and

(C) The harvesting nation meets the criteria of paragraphs (e)(5)(v)(E), and (e)(5)(v)(G) of this section; and

(D) Certificates have been provided to the Assistant Administrator within 30 days of the completion of each and every trip of the nation's purse seine vessels greater than 400 short tons (362.8 mt) carrying capacity from an observer approved by the Assistant Administrator or under the direction of the Inter-American Tropical Tuna Commission, and verified by the Inter-American Tropical Tuna Commission, stating that the observer was aboard the vessel during the entire trip and that there were no intentional purse seine sets on marine mammals or the nation received a positive reconsideration for an affirmative finding under paragraph (e)(5)(xii)(A) of this section.

(xi) *Probation and revocation.* (A)(*1*) If it is determined that, during any trip, a purse seine was intentionally set on marine mammals, the nation will enter into a probationary status for 180 days, effective upon the date the vessel returns to port to unload.

(*2*) If, during the probationary period of 180 days, there are any additional intentional purse seine sets made on marine mammals, the Assistant Administrator will immediately revoke the affirmative finding.

(B)(*1*) If it is determined that, during any trip, an observer is not aboard a nation's purse seine vessel greater than 400 short tons (362.8 mt) carrying capacity fishing in the ETP, that nation will enter into a probationary status for 1 year, effective upon the date the vessel returns to port to unload.

(*2*) If, during the 1-year probationary period, a nation's purse seine vessel returns to port to unload, and it is determined that an observer was not aboard the vessel during a trip in the ETP, the Assistant Administrator will immediately revoke an affirmative finding made under paragraphs (e)(5)(viii) or (e)(5)(x) of this section.

(xii) *Reconsideration.* (A) The Assistant Administrator will reconsider a revocation of an affirmative finding upon request from a harvesting nation which had its affirmative finding revoked under paragraph (e)(5)(xi)(A) of this section if:

(*1*) The number of marine mammals taken in purse seine nets that were intentionally set on marine mammals does not exceed the comparability standards established in paragraphs (e)(5)(v)(E) and (e)(5)(v)(G) of this section; and

(*2*) That nation provides documentary evidence that no additional purse seines were intentionally set on marine mammals during the 90-day period immediately preceding the request for reconsideration.

(B) A harvesting nation which has its affirmative finding revoked under paragraph (e)(5)(xi)(B) of this section or its reconsideration under paragraph (e)(5)(xii)(A) of this section denied, may request reconsideration for an affirmative finding under paragraph (e)(5)(vii) of this section.

(xiii) *Verification.* The Assistant Administrator may require verification of statements made in connection with requests to allow importations.

(xiv) *Intermediary nation.* Any yellowfin tuna or yellowfin tuna products in the classifications listed in paragraph (e)(2)(i) of this section, from any intermediary nation, may not be imported into the United States unless the Assistant Administrator determines and publishes in the **Federal Register** that the intermediary nation has provided reasonable proof and has certified to the United States that it has acted to ban the importation into its nation of yellowfin tuna or yellowfin tuna products that are subject to a direct ban on importation into the United States. The intermediary nation's ban must be effective within 60 days of the effective date of the U.S. ban, and the intermediary nation must supply the Assistant Administrator with the reasonable proof and certification within 90 days of the effective date of the U.S. ban in order to avoid imposition of the intermediary nation ban on the 91st day. A prohibition on imports under this paragraph may be lifted by the Assistant Administrator upon a determination announced in the **Federal Register**, based upon new information supplied by the government of the intermediary nation, that the nation has acted to prohibit the importation of ETP purse seine-harvested yellowfin tuna and yellowfin tuna products from those nations from which the United States has banned the importation of ETP purse seine-harvested yellowfin tuna and yellowfin tuna products. Where a prohibition on imports has been lifted under this paragraph, it shall be reinstated at any time that the Assistant Administrator finds that the nation has imported yellowfin tuna or yellowfin tuna products subject to the direct ban on importation.

(xv) *Pelly certification.* After 6 months on an embargo being in place against a nation under this section, that fact shall be certified to the President for purposes of certification under section 8(a) of the Fishermen's Protective Act of 1967 (22 U.S.C. 1978(a)) for as long as the embargo is in effect.

(xvi) *Coordination.* The Assistant Administrator will promptly advise the Department of State of embargo decisions, actions and finding determinations.

[FR Doc. 92-27887 Filed 11-17-92; 8:45 am]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 57, No. 223
Wednesday, November 18, 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.

RESOLUTION TRUST CORPORATION

12 CFR Part 1626

RIN 3205-AA18

Program Fraud Civil Remedies and Procedures

AGENCY: Resolution Trust Corporation.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Resolution Trust Corporation (RTC) hereby proposes rules to implement the Program Fraud Civil Remedies Act (the Act) of 1986. The proposed rules would establish administrative procedures for determining whether to impose the statutorily authorized civil penalties against any person who makes, submits, or presents a false, fictitious, or fraudulent claim or written statement to the Corporation.

DATES: Comments must be submitted on or before December 18, 1992.

ADDRESSES: Written comments regarding the proposed rule should be addressed to John M. Buckley, Jr., Secretary, Resolution Trust Corporation, 801 17th Street, NW., Washington, DC 20434-0001. Comments may be hand delivered to room 314 on business days between 9 a.m. and 5 p.m. Comments may also be inspected in the Public Reading Room, 801 17th Street, NW. between 9 a.m. and 5 p.m. on business days. (Phone numbers: (202) 416-6940; FAX number: (202) 416-4753).

FOR FURTHER INFORMATION CONTACT: Carl Gold, Legal Division. Telephone: (202) 736-0728.

SUPPLEMENTARY INFORMATION: In October 1986, Congress enacted the Program Fraud Civil Remedies Act, 31 U.S.C. 3801, et seq., to establish a new administrative remedy against those who knowingly make false claims and/or false statements. The statute requires specified entities of the Federal Government to adopt regulations that establish procedures to recover penalties and assessments against persons who file false claims or statements. The Act provides for designated investigative and reviewing officials, an administrative hearing process, and an agency appeal procedure with limited judicial review. To facilitate the new process and promote uniformity in government, the President's Council on Integrity and Efficiency distributed draft model regulations to its membership. The RTC, with minor variation, proposes to adopt the model regulations set forth in the Council's final draft. The proposed regulations also incorporate certain definitions and procedures required by the Act. In keeping with the Act's requirements, the RTC's proposed regulations provide that the Inspector General or a designee will act as the Investigating Official; a designee of the General Counsel will act as the Reviewing Official; the Division of Legal Service will assist in prosecuting claims; an administrative law judge will be the Presiding Officer; and the Chief Executive Officer, or his designee, will act as Authority Head on appeals.

In addition to providing procedures for dealing with the filing of false claims or statements, it should be noted that the proposed regulation provides procedures for assessing civil penalties against those who do business with the RTC despite intentionally failing to file certifications required by law. Attention is particularly directed to § 1626.3(c) of the proposed regulation. While this section would apply to the failure to file any required certification, it particularly carries out the statutory command of the so-called "Byrd Amendment" (31 U.S.C. 1352) that the failure to file a certification required by that statute is punishable using procedures adopted pursuant to the Program Fraud Civil Remedies Act. (The same is true for any affirmative false statements made in response to the Byrd Amendment.)

Comments are invited on all issues relating to these proposed rules.

Initial Regulatory Flexibility Analysis

As required by the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, the following initial regulatory flexibility analysis is hereby provided:

1. Reasons, objectives, and legal bases underlying the proposed regulation: These elements have been discussed elsewhere in the **SUPPLEMENTARY INFORMATION.** It has been noted that the RTC is statutorily mandated to promulgate these regulations. Therefore, to the extent that the regulation affects small firms or individuals, it is a direct consequence of that statutory mandate. By adopting this regulation, the RTC will ensure that all participants in the RTC's programs, including small firms and individuals, will have a better chance to compete because advantages inadvertently conferred to dishonest firms and individuals will be reduced or eliminated.

2. Small entities to which the regulation would apply. This element is discussed elsewhere in the **SUPPLEMENTARY INFORMATION.**

3. Impact of the interim final regulations on small businesses: This regulation would not increase the burden on small businesses to participate in the RTC's programs.

4. Overlapping or conflicting Federal rules. There are no known Federal rules which overlap, duplicate, or conflict with the interim final regulations.

5. Alternatives to the proposed regulation. The RTC has not identified alternatives that would be less burdensome to small businesses and yet effectively accomplish the objectives of the proposed regulation. As noted above, the regulation is mandated by statute, and many of the provisions and procedures are mandated by statute. The RTC is always willing to negotiate or streamline proceedings by agreement with the program participant to the extent permitted by the statute.

Comment is solicited on all of the above issues.

Lists of Subjects in 12 CFR Part 1626

Administrative practice and procedure, Claims, Fraud, Penalties.

For the reasons set out in the preamble, the RTC hereby proposes to add part 1626 to title 12, chapter XVI, of the Code of Federal Regulations to read as follows:

PART 1626—PROGRAM FRAUD CIVIL REMEDIES AND PROCEDURES

Sec.

1626.1 Basis and purpose.
1626.2 Definitions.
1626.3 Basis for civil penalties and assessments.
1626.4 Investigations.
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1626.46 Compromise or settlement.
1626.47 Limitations.

Authority: 12 U.S.C. 1441a(b)(12)(A); 31 U.S.C. 3809.

§ 1626.1 Basis and purpose.

(a) *Basis.* This part implements the Program Fraud Civil Remedies Act of 1986. Pub. L. 99–509, codified at 31 U.S.C. 3801–3812. 31 U.S.C. 3809 of the statute requires each authority head to promulgate regulations necessary to implement the provisions of the statute.

(b) *Purpose.* (1) Establishes administrative procedures for imposing civil penalties and assessments against persons who make, submit, or present or cause to be made, submitted, or presented false, fictitious, or fraudulent claims or written statements to authorities or to their agents.

(2) Specifies the hearing and appeal rights of persons subject to allegations of liability for such penalties and assessments.

§ 1626.2 Definitions.

(a) *Administrative Law Judge (ALJ)* means the authority appointed pursuant to 5 U.S.C. 3105 or detailed to the authority pursuant to 5 U.S.C. 3344.

(b) *Authority* means the Resolution Trust Corporation (RTC).

(c) *Authority head* means the President/Chief Executive Officer of the RTC.

(d) *Benefit* means, in the context of "statement," anything of value, including but not limited to, any advantage, preference, privilege, license, permit, favorable decision, ruling, status, or loan guarantee.

(e) *Claim* means any request, demand, or submission:

(1) Made to the authority for property, services, or money (including money representing grants, loans, insurance, or benefits);

(2) Made to a recipient of property, services, or money from the authority or to a party to a contract with the authority—

(i) For property or services if the United States:

(A) Provided such property or services;

(B) Provided any portion of the funds for the purchase of such property or services; or

(C) Will reimburse such recipient or party for the purchase of such property or services;

(ii) For the payment of money (including money representing grants, loans, insurance, or benefits) if the United States:

(A) Provided any portion of the money requested or demanded; or

(B) Will reimburse such recipient or party for any portion of the money paid on such request or demand; or

(3) Made to the authority which has the effect of decreasing an obligation to pay or account for property, services, or money.

(f) *Complaint* means the administrative complaint served by the reviewing official on the defendant under § 1626.7.

(g) *Corporation* means the Resolution Trust Corporation.

(h) *Defendant* means any person alleged in a complaint under § 1626.7 of this part to be liable for a civil penalty or assessment under § 1626.3.

(i) *Government* means the United States Government.

(j) *Individual* means a natural person.

(k) *Initial decision* means the written decision of the ALJ required by § 1626.10 or § 1626.37, and includes a revised initial decision issued following a remand or a motion for reconsideration.

(l) *Investigating official* means the Inspector General of the Resolution Trust Corporation, or an officer or employee of the Office of Inspector General designated by the Inspector General and serving in a position for which the rate of basic pay is not less than the minimum rate of basic pay for grade GS–16 under the General Schedule.

(m) *Knows or has reason to know,* means that a person, with respect to a claim or statement:

(1) Has actual knowledge that the claim or statement is false, fictitious, or fraudulent;

(2) Acts in deliberate ignorance of the truth or falsity of the claim or statement; or

(3) Acts in reckless disregard of the truth or falsity of the claim or statement.

(n) *Makes,* wherever it appears, shall include the terms "presents," "submits," and "causes to be made, presented, or submitted." As the context requires, "making" or "made," shall likewise include the corresponding forms of such terms.

(o) *Person* means any individual, partnership, corporation, association, or private organization, and includes the plural of that term.

(p) *Representative* means an attorney, who is a member in good standing of the bar of any State, Territory, or possession of the United States or of the District of Columbia or the Commonwealth of Puerto Rico, and designated by a party in writing.

(q) *Reviewing Official* means the Senior Vice President/General Counsel, or designee who is:

(1) Not subject to supervision by, or required to report to, the investigating official;

(2) Not employed in the organizational unit of the authority in which the investigating official is employed; and

(3) Serving in a position for which the rate of basic pay is not less than the minimum rate of basic pay for grade GS–16 under the General Schedule.

(r) *Statement* means any representation, certification, affirmation, document, record, or accounting or bookkeeping entry made:

(1) With respect to a claim or to obtain the approval or payment of a claim (including relating to eligibility to make a claim); or

(2) With respect to (including relating to eligibility for):

(i) A contract with, or a bid or proposal for a contract with; or

(ii) A grant, loan, or benefit received, directly or indirectly, from the authority, or any State, political subdivision of a State, or any other party, if the United States Government provides any portion of the money or property under such contract or for such grant, loan, or benefit, or if the Government will reimburse such State, political

subdivision, or party for any portion of the money or property under such contract or for such grant, loan, or benefit.

§ 1626.3 Basis for civil penalties and assessments.

(a) *Claims.* (1) Except as provided in paragraph (c) of this section, any person who makes a claim that the person knows or has reason to know constitutes any of the following in paragraphs (a)(1) (i) through (iv) of this section, shall be subject, in addition to any other remedy that may be prescribed by law, to a civil penalty of not more than $5,000 for each such claim:

(i) The claim is false, fictitious, or fraudulent;

(ii) The claim includes or is supported by any written statement which asserts a material fact which is false, fictitious, or fraudulent; or

(iii) The claim includes or is supported by any written statement that:

(A) Omits a material fact;

(B) Is false, fictitious, or fraudulent as a result of such omission; and

(C) Is a statement in which the person making such statement has a duty to include such material fact; or

(iv) The claim is for payment for the provision of property or services which the person has not provided as claimed.

(2) Each voucher, invoice, claim form, or other individual request or demand for property, services, or money constitutes a separate claim.

(3) A claim shall be considered made to the authority, recipient, or party when such claim is actually made to an agent, fiscal intermediary, or other entity, including any State or political subdivision thereof, acting for or on behalf of such authority, recipient, or party.

(4) Each claim for property, services, or money is subject to a civil penalty regardless of whether such property, services, or money is actually delivered or paid.

(5) If the Government has made any payment (including transferred property or provided services) on a claim, a person subject to a civil penalty under paragraph (a)(1) of this section shall also be subject to an assessment of not more than twice the amount of such claim or that portion thereof that is determined to be in violation of paragraph (a)(1) of this section. Such assessment shall be in lieu of damages sustained by the Government because of such claims.

(b) *Statements.* (1) Except as provided in paragraph (c) of this section, any person who makes a written statement that meets the conditions in paragraphs (b)(1) (i) and (ii) of this section shall be subject, in addition to any other remedy that may be prescribed by law, to a civil penalty of not more than $5,000 for each such statement:

(i) The person knows or has reason to know that the statement:

(A) Asserts a material fact which is false, fictitious, or fraudulent; or

(B) Is false, fictitious, or fraudulent because it omits a material fact that the person making the statement has a duty to include in such statement; and

(ii) Contains or is accompanied by an express certification or affirmation of the truthfulness and accuracy of the contents of the statement.

(2) Each written representation, certification, or affirmation constitutes a separate statement.

(3) A statement shall be considered made to the authority when such statement is actually made to an agent, fiscal intermediary, or other entity, including any State or political subdivision thereof, acting for or on behalf of such authority.

(c) *Failure to file certification.* Where, as a prerequisite to conducting business with the RTC, a person is required by law to file one or more certifications, and the person intentionally fails to file such certification, the person shall be subject to civil penalties as prescribed by this part.

(d) *Intent.* No proof of specific intent to defraud is required to establish liability under this section.

(e) *Liability.* (1) In any case in which it is determined that more than one person is liable for making a claim or statement under this section, each such person may be held jointly and severally liable for a civil penalty under this section.

(2) In any case in which it is determined that more than one person is liable for making a claim under this section on which the Government has made payment (including transferred property or provided services), an assessment may be imposed against any such person or jointly and severally against any combination of such persons.

§ 1626.4 Investigations.

(a) If an investigating official concludes that a subpoena pursuant to the authority conferred by 31 U.S.C. 3804(a) is warranted:

(1) The subpoena so issued shall identify the person to who it is addressed and the authority under which the subpoena is issued and shall identify the records or documents sought;

(2) The investigating official may designate a person to act on his or her behalf to receive the documents sought; and

(3) The person receiving such subpoena shall be required to tender to the investigating official or the person designated to receive the documents a certification that the documents sought have been produced, or that such documents are not available, and the reasons therefore, or that such documents, suitably identified, have been withheld based upon the assertion of an identified privilege.

(b) If the investigating official concludes that an action under the Program Fraud Civil Remedies Act may be warranted, the investigating official shall submit a report containing the findings and conclusions of such investigation to the reviewing official.

(c) Nothing in this section shall preclude or limit an investigating official's discretion to refer allegations directly to the Department of Justice for suit under the False Claims Act or other civil relief, or to preclude or limit such official's discretion to defer or postpone a report or referral to the reviewing official to avoid interference with a criminal investigation or prosecution.

(d) Nothing in this section modifies any responsibility of an investigating official to report violations of criminal law to the Attorney General.

§ 1626.5 Review by the reviewing official.

(a) If, based on the report of the investigating official under § 1626.4(b), the reviewing official determines that there is adequate evidence to believe that a person is liable under § 1626.3, the reviewing official shall transmit to the Attorney General a written notice of the reviewing official's intention to issue a complaint under § 1626.7.

(b) Such notice shall include:

(1) A statement of the reviewing official's reasons for issuing a complaint;

(2) A statement specifying the evidence that supports the allegations of liability;

(3) A description of the claims or statements upon which the allegations of liability are based;

(4) An estimate of the amount of money or the value of property, services, or other benefits requested or demanded in violation of § 1626.3;

(5) A statement of any exculpatory or mitigating circumstances that may relate to the claims or statements known by the reviewing official or the investigating official; and

(6) A statement that there is a reasonable prospect of collecting an appropriate amount of penalties and assessments. Such a statement may be based upon information then known, or

an absence of any information indicating that the person may be unable to pay such amount.

§ 1626.6 Prerequisites for issuing a complaint.

(a) The reviewing official may issue a complaint under § 1626.7 only if:

(1) The Department of Justice approves the issuance of a complaint in a written statement described in 31 U.S.C. 3803(b)(1); and

(2) In the case of allegations of liability under § 1626.3(a) with respect to a claim, the reviewing official determines that, with respect to such claim or a group of related claims submitted at the same time such claim is submitted (as defined in paragraph (b) of this section), the amount of money or the value of property or services demanded or requested in violation of § 1626.3(a) does not exceed $150,000.

(b) For the purposes of this section, a related group of claims submitted at the same time shall include only those claims arising from the same transaction (e.g., grant, loan, application, or contract) that are submitted simultaneously as part of a single request, demand, or submission.

(c) Nothing in this section shall be construed to limit the reviewing official's authority to join in a single complaint against a person claims that are unrelated or were not submitted simultaneously, regardless of the amount of money, or the value of property or services, demanded or requested.

§ 1626.7 Complaint.

(a) On or after the date the Department of Justice approves the issuance of a complaint in accordance with 31 U.S.C. 3803(b)(1), the reviewing official may serve a complaint on the defendant, as provided in § 1626.8.

(b) The complaint shall state:

(1) The allegations of liability against the defendant, including the statutory basis for liability, an identification of the claims or statements that are the basis for the alleged liability, and the reasons why liability allegedly arises from such claims or statements;

(2) The maximum amount of penalties and assessments for which the defendant may be held liable;

(3) Instructions for filing an answer and to request a hearing, including a specific statement of the defendant's right to request a hearing by filing an answer and to be represented by a representative; and

(4) That failure to file an answer within 30 days of service of the complaint will result in the imposition of the maximum amount of penalties and assessments without right to appeal, as provided in § 1626.10.

(c) At the same time the reviewing official serves the complaint, he or she shall serve the defendant with a copy of this part.

§ 1626.8 Service of complaint.

(a) Service of a complaint must be made by certified or registered mail or by delivery in any manner authorized by Rule 4(d) of the Federal Rules of Civil Procedure (28 U.S.C. App.). Service is complete upon receipt.

(b) Proof of service, stating the name and address of the person on whom the complaint was served, and the manner and date of service, may be made by:

(1) Affidavit of the individual serving the complaint by delivery;

(2) A United States Postal Service return receipt card acknowledging receipt; or

(3) Written acknowledgment of receipt by the defendant or his or her representative.

§ 1626.9 Answer.

(a) The defendant may request a hearing by filing an answer with the reviewing official within 30 days of service of the complaint. An answer shall be deemed to be a request for hearing.

(b) In the answer, the defendant:

(1) shall admit or deny each of the allegations of liability made in the complaint;

(2) Shall state any defense on which the defendant intends to rely;

(3) May state any reasons why the defendant contends that the penalties and assessments should be less than the statutory maximum; and

(4) Shall state the name, address, and telephone number of the person authorized by the defendant to act as defendant's representative, if any.

(c) If the defendant is unable to file an answer meeting the requirements of paragraph (b) of this section within the time provided, the defendant may, before the expiration of 30 days from service of the complaint, file with the reviewing official a general answer denying liability and requesting a hearing, and a request for an extension of time within which to file an answer meeting the requirements of paragraph (b) of this section. The reviewing official shall file promptly with the ALJ the complaint, the general answer denying liability, and the request for an extension of time as provided in § 1626.11. For good cause shown, the ALJ may grant the defendant up to 30 additional days within which to file an answer meeting the requirements of paragraph (b) of this section.

§ 1626.10 Default upon failure to file an answer.

(a) If the defendant does not file an answer within the time prescribed in § 1626.9(a), the reviewing official may refer the complaint to the ALJ.

(b) Upon the referral of the complaint, the ALJ shall promptly serve on defendant in the manner prescribed in § 1626.8, a notice that a decision shall be issued under this section.

(c) If the defendant fails to answer, the ALJ shall assume the facts alleged in the complaint to be true, and, if such facts establish liability under § 1626.3, the ALJ shall issue an initial decision imposing the maximum amount of penalties and assessments allowed under the statute.

(d) Except as otherwise provided in this section, by failing to file a timely answer, the defendant waives any right to further review of the penalties and assessments imposed under paragraph (c) of this section, and the decision shall become final and binding upon the parties 30 days after it is issued.

(e) If, before such a decision becomes final, the defendant files a motion with the ALJ seeking to reopen on the grounds that extraordinary circumstances prevented the defendant from filing an answer, the decision shall be stayed pending the ALJ's decision on the motion.

(f) If, on such motion, the defendant can demonstrate extraordinary circumstances excusing the failure to file a timely answer, the ALJ shall withdraw the decision in paragraph (c) of this section, if such a decision has been issued, and shall grant the defendant an opportunity to answer the complaint.

(g) A decision of the ALJ denying a defendant's motion under paragraph (e) of this section is not subject to reconsideration under § 1626.38.

(h) The defendant may appeal to the authority head the decision denying the motion to reopen by filing a notice of appeal with the authority head within 15 days after the ALJ denies the motion. The timely filing of a notice of appeal shall stay the initial decision until the authority head decides the issue.

(i) If the defendant files a timely notice of appeal with the authority head, the ALJ shall forward the record of the proceeding to the authority head.

(j) The authority head shall decide expeditiously whether extraordinary circumstances excuse the defendant's failure to file a timely answer based solely on the record before the ALJ.

(k) If the authority head decides that extraordinary circumstances excuses the defendant's failure to file a timely answer, the authority head shall remand

the case to the ALJ with instructions to grant the defendant an opportunity to answer.

(l) If the authority head decides that the defendant's failure to file a timely answer is not excused, the authority head shall reinstate the initial decision of the ALJ, which shall become final and binding upon the parties 30 days after the authority head issues such decision.

§ 1626.11 Referral of complaint and answer to the ALJ.

Upon receipt of an answer, the reviewing official shall file the complaint and answer with the ALJ.

§ 1626.12 Notice of hearing.

(a) When the ALJ receives the complaint and answer, the ALJ shall promptly serve a notice of hearing upon the defendant in the manner prescribed by § 1626.8. At the same time, the ALJ shall send a copy of such notice to the representative of the Corporation.

(b) Such notice shall include:

(1) The tentative time, date, and place, and the nature of the hearing;

(2) The legal authority and jurisdiction under which the hearing is to be held;

(3) The matters of fact and law to be asserted;

(4) A description of the procedures for the conduct of the hearing;

(5) The name, address, and telephone number of the representative of the Corporation and of the defendant, if any; and

(6) Such other matters as the ALJ deems appropriate.

§ 1626.13 Parties to the hearing.

(a) The parties to the hearing shall be the defendant and the Corporation.

(b) Pursuant to the False Claims Act (31 U.S.C. 3730(c)(5)), a private plaintiff may participate in these proceedings to the extent authorized by the provisions of that Act.

§ 1626.14 Separation of functions.

(a) The investigating official, the reviewing official, and any employee or agent of the authority who takes part in investigating, preparing, or presenting a particular case may not, in such case or a factually related case:

(1) Participate in the hearing as the ALJ;

(2) Participate or advise in the initial decision or the review of the initial decision by the authority head, except as a witness or a representative in public proceedings; or

(3) Make the collection of penalties and assessments under 31 U.S.C. 3806.

(b) The ALJ shall not be responsible to, or subject to the supervision or direction of, the investigating official or the reviewing official.

(c) Except as provided in paragraph (a) of this section, the representative for the Corporation may be employed anywhere in the authority, including in the offices of either the investigating official or the reviewing official.

§ 1626.15 Ex parte contacts.

No party or person (except employees of the ALJ's office) shall communicate in any way with the ALJ on any matter at issue in a case, unless on notice and opportunity for all parties to participate. This provision does not prohibit a person or party from inquiring about the status of a case or asking routine questions concerning administrative functions or procedures.

§ 1626.16 Disqualification of reviewing official or ALJ.

(a) A reviewing official or ALJ in a particular case may disqualify himself or herself at any time.

(b) A party may file with the ALJ a motion for disqualification of a reviewing official or an ALJ. Such motion shall be accompanied by an affidavit alleging conflict of interest or other reason for disqualification.

(c) Such motion and affidavit shall be filed promptly upon the party's discovery of reasons requiring disqualification, or such objections shall be deemed waived.

(d) Such affidavit shall state specific facts that support the party's belief that personal bias or other reason for disqualification exists and the time and circumstances of the party's discovery of such facts. It shall be accompanied by a certificate of the representative of record that it is made in good faith.

(e) Upon the filing of such a motion and affidavit, the ALJ shall proceed no further in the case until he or she resolves the matter of disqualification in accordance with paragraph (f) of this section.

(f)(1) If the ALJ determines that a reviewing official is disqualified, the ALJ shall dismiss the complaint without prejudice.

(2) If the ALJ disqualifies himself or herself, the case shall be reassigned promptly to another ALJ.

(3) If the ALJ denies a motion to disqualify, the authority head may determine the matter only as part of his, or her review or the initial decision upon appeal, if any.

§ 1626.17 Rights of parties.

Except as otherwise limited by this part, all parties may:

(a) Be accompanied, represented, and advised by a representative;

(b) Participate in any conference held by the ALJ;

(c) Conduct discovery;

(d) Agree to stipulations of fact or law, which shall be made part of the record;

(e) Present evidence relevant to the issues at the hearing;

(f) Present and cross-examine witnesses;

(g) Present oral arguments at the hearing as permitted by the ALJ; and

(h) Submit written briefs and proposed findings of fact and conclusions of law.

§ 1626.18 Authority of the ALJ.

(a) The ALJ shall conduct a fair and impartial hearing, avoid delay, maintain order, and assure that a record of the proceeding is made.

(b) The ALJ has the authority to:

(1) Set and change the date, time, and place of the hearing upon reasonable notice to the parties;

(2) Continue or recess the hearing in whole or in part for a reasonable period of time;

(3) Hold conferences to identify or simplify the issues, or to consider other matters that may aid in the expeditious disposition of the proceeding;

(4) Administer oaths and affirmations;

(5) Issue subpoenas requiring the attendance of witnesses and the production of documents at depositions or at hearings;

(6) Rule on motions and other procedural matters;

(7) Regulate the scope and timing of discovery;

(8) Regulate the course of the hearing and the conduct of representatives and parties;

(9) Examine witnesses;

(10) Receive, rule on, exclude, or limit evidence;

(11) Upon motion of a party, take official notice of facts; decide cases, in whole or in part, by summary judgment where there is no disputed issue of material fact;

(12) Conduct any conference, argument, or hearing on motions in person or by telephone; and

(13) Exercise such other authority as is necessary to carry out the responsibilities of the ALJ under this part.

(c) The ALJ does not have the authority to find Federal statutes or regulations invalid.

1626.19 Prehearing conferences.

(a) The ALJ may schedule prehearing conferences as appropriate.

(b) Upon the motion of any party, the ALJ shall schedule at least one prehearing conference at a reasonable time in advance of the hearing.

(c) The ALJ may use prehearing conferences to discuss the following:

(1) Simplification of the issues;

(2) The necessity or desirability of amendments to the pleading, including the need for a more definite statement;

(3) Stipulations and admissions of fact or as to the contents and authenticity of documents;

(4) Whether the parties can agree to submission of the case on a stipulated record;

(5) Whether a party (subject to the objection of other parties) chooses to waive appearance at an oral hearing and to submit only documentary evidence and written argument;

(6) Limitation of the number of witnesses;

(7) Scheduling dates for the exchange of witness lists and of proposed exhibits;

(8) Discovery;

(9) The time, date, and place for the hearing; and

(10) Such other matters as may tend to expedite the fair and just disposition of the proceedings.

(d) The ALJ may issue an order containing all matters agreed upon by the parties or ordered by the ALJ at a prehearing conference.

§ 1626.20 Disclosure of documents.

(a) Upon written request to the reviewing official, the defendant may review any relevant and material documents, transcripts, records, and other materials that relate to the allegations set out in the complaint and upon which the findings and conclusions of the investigating official under § 1626.4(b) are based, unless such documents are subject to a privilege under Federal law. Upon payment of fees for duplication, the defendant may obtain copies of such documents.

(b) Upon written request to the reviewing official, the defendant also may obtain a copy of all exculpatory information in the possession of the reviewing official or investigating official relating to allegations in the complaint, even if it is contained in a document that would otherwise be privileged. If the document would otherwise be privileged, only that portion containing exculpatory information must be disclosed.

(c) The notice sent to the Attorney General from the reviewing official as described in § 1626.5 is not discoverable under any circumstances.

(d) The defendant may file a motion to compel disclosure of the documents subject to the provisions of this section. Such a motion may only be filed with the ALJ following the filing of an answer pursuant to § 1626.9.

§ 1626.21 Discovery.

(a) The following types of discovery are authorized:

(1) Requests for production of documents for inspection and copying;

(2) Requests for admissions of the authenticity of any relevant document or of the truth of any relevant fact;

(3) Written interrogatories; and

(4) Depositions.

(b) For the purpose of this section and §§ 1626.22 and 1626.23, the term "documents" includes information, documents, reports, answers, records, accounts, papers, and other data or documentary evidence. Nothing contained in this part shall be interpreted to require the creation of a document.

(c) Unless mutually agreed to by the parties, discovery is available only as ordered by the ALJ. The ALJ shall regulate the timing of discovery.

(d) Motions for discovery. (1) A party seeking discovery may file a motion with the ALJ. Such a motion shall be accompanied by a copy of the requested discovery, or in the case of depositions, a summary of the scope of the proposed deposition.

(2) Within 10 days of service, a party may file an opposition to the motion and/or a motion for protective order as provided in § 1626.24.

(3) The ALJ may grant a motion for discovery only if he or she finds that the discovery sought:

(i) Is necessary for the expeditious, fair, and reasonable consideration of the issues;

(ii) Is not unduly costly or burdensome;

(iii) Will not unduly delay the proceeding; and

(iv) Does not seek privileged information.

(4) The burden of showing that discovery should be allowed is on the party seeking discovery.

(5) The ALJ may grant discovery subject to a protective order under § 1626.24.

(e) Depositions. (1) If a motion for deposition is granted, the ALJ shall issue a subpoena for the deponent, which may require the deponent to produce documents. The subpoena shall specify the time, date, and place at which the deposition will be held.

(2) The party seeking to depose shall serve the subpoena in the manner prescribed in § 1626.8.

(3) The deponent may file with the ALJ a motion to quash the subpoena or a motion for a protective order within 10 days of service.

(4) The party seeking to depose shall provide for the taking of a verbatim transcript of the deposition, which it shall make available to all other parties for inspection and copying.

(f) Each party shall bear its own costs of discovery.

§ 1626.22 Exchange of witness lists, statements, and exhibits.

(a) At least 15 days before the hearing or at such other time as may be ordered by the ALJ, the parties shall exchange witness lists, copies of prior statements of proposed witnesses, and copies of proposed hearing exhibits, including copies of any written statements that the party intends to offer in lieu of live testimony in accordance with § 1626.33(b). At the time the above documents are exchanged, any party that intends to rely on the transcript of deposition testimony in lieu of live testimony at the hearing, if permitted by the ALJ, shall provide each party with a copy of the specific pages of the transcript it intends to introduce into evidence.

(b) If a party objects, the ALJ shall not admit into evidence the testimony of any witness whose name does not appear on the witness list or any exhibit not provided to the opposing party as provided above unless the ALJ finds good cause for the failure or that there is no prejudice to the objecting party.

(c) Unless another party objects within the time set by the ALJ, documents exchanged in accordance with paragraph (a) of this section shall be deemed to be authentic for the purpose of admissibility at the hearing.

§ 1626.23 Subpoenas for attendance at hearing.

(a) A party wishing to procure the appearance and testimony of any individual at the hearing may request that the ALJ issue a subpoena.

(b) A subpoena requiring the attendance and testimony of an individual may also require the individual to produce documents at the hearing.

(c) A party seeking a subpoena shall file a written request therefore not less than 15 days before the date fixed for the hearing unless otherwise allowed by the ALJ for good cause shown. Such request shall specify any documents to be produced and shall designate the witnesses and describe the address and location thereof with sufficient particularity to permit such witnesses to be found.

(d) The subpoena shall specify the time, date, and place at which the witness is to appear and any documents the witness is to produce.

(e) The party seeking the subpoena shall serve it in the manner prescribed

in § 1626.8. A subpoena on a party or upon an individual under the control of a party may be served by first class mail.

(f) A party or the individual to whom the subpoena is directed may file with the ALJ a motion to quash the subpoena within 10 days after service or on or before the time specified in the subpoena for compliance if it is less than 10 days after service.

§ 1626.24 Protective order.

(a) A party or a prospective witness or deponent may file a motion for a protective order with respect to discovery sought by an opposing party or with respect to the hearing, seeking to limit the availability or disclosure of evidence.

(b) In issuing a protective order, the ALJ may make any order which justice requires to protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense, including one or more of the following:

(1) That the discovery not be had;

(2) That the discovery may be had only on specified terms and conditions, including a designation of the time or place;

(3) That the discovery may be had only through a method of discovery other than that requested;

(4) That certain matters not be inquired into, or that the scope of discovery be limited to certain matters;

(5) That discovery be conducted with no one present except persons designated by the ALJ;

(6) That the contents of discovery or evidence be sealed;

(7) That a deposition after being sealed be opened only by order of the ALJ;

(8) That a trade secret or other confidential research, development, commercial information, or facts pertaining to any criminal investigation, proceeding, or other administrative investigation not be disclosed or be disclosed only in a designated way; or

(9) That the parties simultaneously file specified documents or information enclosed in sealed envelopes to be opened as directed by the ALJ.

§ 1626.25 Witness fees.

The party requesting a subpoena shall pay the cost of the fees and mileage of any witness subpoenaed in the amounts that would be payable to a witness in a proceeding in United States District Court. A check for witness fees and mileage shall accompany the subpoena when served, except that when a subpoena is issued on behalf of the authority, a check for witness fees and mileage need not accompany the subpoena.

§ 1626.26 Form, filing, and service of papers.

(a) *Form.* (1) Documents filed with the ALJ shall include an original and two copies.

(2) Every pleading and paper filed in the proceeding shall contain a caption setting forth the title of the action, the case number assigned by the ALJ, and a designation of the paper (e.g., motion to quash subpoena).

(3) Every pleading and paper shall be signed by, and shall contain the address and telephone number of the party or the person on whose behalf the paper was filed, or his or her representative.

(4) Papers are considered filed when they are mailed. Date of mailing may be established by a certificate from the party or its representative or by proof that the document was sent by certified or registered mail.

(b) *Service.* A party filing a document with the ALJ shall, at the time of filing, serve a copy of such document on every other party. Service upon any party of any document other than those required to be served as prescribed in § 1626.8 shall be made by delivering a copy or by placing a copy of the document in the United States mail, postage prepaid, and addressed to the party's last known address. When a party is represented by a representative, service shall be made upon such representative in lieu of the actual party.

(c) *Proof of service.* A certificate by the individual serving the document by personal delivery or by mail, setting forth the manner of service, shall be proof of service.

§ 1626.27 Computation of time.

(a) In computing any period of time under this part or in an order issued thereunder, the time begins with the day following the act, event, or default, and includes the last day of the period, unless it is a Saturday, Sunday, or legal holiday observed by the Federal government, in which event it includes the next business day.

(b) When the period of time allowed is less than 7 days, intermediate Saturdays, Sundays, and legal holidays observed by the Federal government shall be excluded from the computation.

(c) Where a document has been served or issued by placing it in the mail, an additional 5 days will be added to the time permitted for any response.

§ 1626.28 Motions.

(a) Any application to the ALJ for an order or ruling shall be by motion. Motions shall state the relief sought, the authority relied upon, and the facts alleged, and shall be filed with the ALJ and served on all other parties.

(b) Except for motions made during a prehearing conference or at the hearing, all motions shall be in writing. The ALJ may require that oral motions be reduced to writing.

(c) Within 15 days after a written motion is served, or such other time as may be fixed by the ALJ, any party may file a response to such motion.

(d) The ALJ may not grant a written motion before the time for filing responses thereto has expired, except upon consent of the parties or following a hearing on the motion, but may overrule or deny such motion without awaiting a response.

(e) The ALJ shall make a reasonable effort to dispose of all outstanding motions prior to the beginning of the hearing.

§ 1626.29 Sanctions.

(a) The ALJ may sanction a person, including any party or representative for:

(1) Failing to comply with an order, rule, or procedure governing the proceeding;

(2) Failing to prosecute or defend an action; or

(3) Engaging in other misconduct that interferes with the speedy, orderly, or fair conduct of the hearing.

(b) Any such sanction, including but not limited to those listed in paragraphs (c), (d), and (e) of this section, shall reasonably relate to the severity and nature of the failure or misconduct.

(c) When a party fails to comply with an order, including an order for taking a deposition, the production of evidence within the party's control, or a request for admission, the ALJ may:

(1) Draw an inference in favor of the requesting party with regard to the information sought;

(2) In the case of requests for admission, deem each matter of which an admission is requested to be admitted;

(3) Prohibit the party failing to comply with such order from introducing evidence concerning, or otherwise relying upon, testimony relating to the information sought; and

(4) Strike any part of the pleading or other submissions of the party failing to comply with such request.

(d) If a party fails to prosecute or defend an action under this part commenced by service of a notice of hearing, the ALJ may dismiss the action or may issue an initial decision imposing penalties and assessments.

(e) The ALJ may refuse to consider any motion, request, response, brief, or other document which is not filed in a timely fashion.

§ 1626.30 The hearing and burden of proof.

(a) The ALJ shall conduct a hearing on the record in order to determine whether the defendant is liable for a civil penalty or assessment under § 1626.3, and, if so, the appropriate amount of any such civil penalty or assessment considering any aggravating or mitigating factors.

(b) The authority shall prove defendant's liability and any aggravating factors by a preponderance of the evidence.

(c) The defendant shall prove any affirmative defenses and any mitigating factors by a preponderance of the evidence.

(d) The hearing shall be open to the public unless otherwise ordered by the ALJ for good cause shown.

§ 1626.31 Determining the amount of penalties and assessments.

(a) In determining an appropriate amount of civil penalties and assessments, the ALJ and the authority head, upon appeal, should evaluate any circumstances that mitigate or aggravate the violation and should articulate in their opinions the reasons that support the penalties and assessments they impose. Because of the intangible costs of fraud, the expense of investigating such conduct, and the need to deter others who might be similarly tempted, ordinarily double damages and a significant civil penalty should be imposed.

(b) Although not exhaustive, the following factors are among those that may influence the ALJ and the authority head in determining the amount of penalties and assessments to impose with respect to the misconduct (i.e., the false, fictitious, or fraudulent claims or statement) charged in the complaint:

(1) The number of false, fictitious, or fraudulent claims or statements;

(2) The time period over which such claims or statements were made;

(3) The degree of the defendant's culpability with respect to the misconduct;

(4) The amount of money or the value of the property, services, or benefit falsely claimed;

(5) The value of the Government's actual loss as a result of the misconduct, including foreseeable consequential damages and the costs of investigation;

(6) The relationship of the amount imposed as civil penalties to the amount of the Government's loss;

(7) The potential or actual impact of the misconduct upon national defense, public health or safety, or public confidence in the management of government programs and operations, including particularly the impact on the intended beneficiaries of such programs;

(8) Whether the defendant has engaged in a pattern of the same or similar misconduct;

(9) Whether the defendant attempted to conceal the misconduct;

(10) The degree to which the defendant has involved others in the misconduct or in concealing it;

(11) Where the misconduct of employees or agents is imputed to the defendant, the extent to which the defendant's practices fostered or attempted to preclude such misconduct;

(12) Whether the defendant cooperated in or obstructed an investigation of the misconduct;

(13) Whether the defendant assisted in identifying and prosecuting other wrongdoers;

(14) The complexity of the program or transaction, and the degree of the defendant's sophistication with respect to it, including the extent of the defendant's prior participation in the program or in a similar transaction;

(15) Whether the defendant has been found, in any criminal, civil, or administrative proceeding to have engaged in similar misconduct or to have dealt dishonestly with the Government of the United States or of a State, directly or indirectly; and

(16) The need to deter the defendant and others from engaging in the same or similar misconduct.

(c) Nothing in this section shall be construed to limit the ALJ or the authority head from considering any other factors that in any given case may mitigate or aggravate the offense for which penalties and assessments are imposed.

§ 1626.32 Location of hearing.

(a) The hearing may be held:

(1) In any judicial district of the United States in which the defendant resides or transacts business;

(2) In any judicial district of the United States in which the claim or statement at issue was made; or

(3) In such other place as may be agreed upon by the defendant and the ALJ.

(b) Each party shall have the opportunity to present arguments with respect to the location of the hearing.

(c) The hearing shall be held at the place and at the time ordered by the ALJ.

§ 1626.33 Witnesses.

(a) Except as provided in paragraph (b) of this section, testimony at the hearing shall be given orally by witnesses under oath or affirmation.

(b) At the discretion of the ALJ, testimony may be admitted in the form of a written statement or deposition. Any such written statement must be provided to all other parties along with the last known address of such witness, in a manner which allows sufficient time for other parties to subpoena such witness for cross-examination at the hearing. Prior written statements of witnesses proposed to testify at the hearing and deposition transcripts shall be exchanged as provided in § 1626.22(a).

(c) The ALJ shall exercise reasonable control over the mode and order of interrogating witnesses and presenting evidence so as to:

(1) Make the interrogation and presentation effective for the ascertainment of the truth;

(2) Avoid needless consumption of time; and

(3) Protect witnesses from harassment or undue embarrassment.

(d) The ALJ shall permit the parties to conduct such cross-examination as may be required for a full and true disclosure of the facts.

(e) At the discretion of the ALJ, a witness may be cross-examined on matters relevant to the proceeding without regard to the scope of his or her direct examination. To the extent permitted by the ALJ, cross-examination on matters outside the scope of direct examination shall be conducted in the manner of direct examination and may proceed by leading questions only if the witness is a hostile witness, an adverse party, or a witness identified with an adverse party.

(f) Upon motion of any party, the ALJ shall order witnesses excluded so that they cannot hear the testimony of other witnesses. The ALJ is not authorized to exclude:

(1) A party who is an individual;

(2) In the case of a party that is not an individual, an officer or employee of the party appearing for the entity pro se or designated by the party's representative; or

(3) An individual whose presence is shown by a party to be essential to the presentation of its case, including an individual employed by the Corporation engaged in assisting the representative for the Corporation.

§ 1626.34 Evidence.

(a) The ALJ shall determine the admissibility of evidence.

(b) Except as provided in this part, the ALJ shall not be bound by the Federal Rules of Evidence (28 U.S.C. App.). However, the ALJ may apply the Federal Rules of Evidence where appropriate, e.g., to exclude unreliable evidence.

(c) The ALJ shall exclude irrelevant and immaterial evidence.

(d) Although relevant, evidence may be excluded if its probative value is substantially outweighed by the danger of unfair prejudice, confusion of the issues, or by considerations of undue delay or needless presentation of cumulative evidence.

(e) Although relevant, evidence may be excluded if it is privileged under Federal law.

(f) Evidence concerning offers of compromise or settlement shall be inadmissible to the extent provided in Rule 408 of the Federal Rules of Evidence.

(g) The ALJ shall permit the parties to introduce rebuttal witnesses and evidence.

(h) All documents and other evidence offered or taken for the record shall be open to examination by all parties, unless otherwise ordered by the ALJ pursuant to § 1626.24.

§ 1626.35 The record.

(a) The hearing will be recorded and transcribed. Transcripts may be obtained following the hearing from the ALJ at a cost not to exceed the actual cost of duplication.

(b) The transcript of testimony, exhibits, and other evidence admitted at the hearing, and all papers and requests filed in the proceeding constitute the record for the decision by the ALJ and the authority head.

(c) The record may be inspected and copied (upon payment of a reasonable fee) by anyone, unless otherwise ordered by the ALJ pursuant to § 1626.24.

§ 1626.36 Post-hearing briefs.

The ALJ may require the parties to file post-hearing briefs. In any event, any party may file a post-hearing brief. The ALJ shall fix the time for filing such briefs, not to exceed 60 days from the date the parties receive the transcript of the hearing or, if applicable, the stipulated record. Such briefs may be accompanied by proposed findings of fact and conclusions of law. The ALJ may permit the parties to file reply briefs.

§ 1626.37 Initial decision.

(a) The ALJ shall issue an initial decision based only on the record, which shall contain findings of fact, conclusions of law, and the amount of any penalties and assessments imposed.

(b) The findings of fact shall include a finding on each of the following issues:

(1) Whether the claims or statements identified in the complaint, or any portions thereof, violate § 1626.3; and

(2) If the person is liable for penalties or assessments, the appropriate amount of any such penalties or assessments considering any mitigating or aggravating factors that he or she finds in the case, such as those described in § 1626.31.

(c) The ALJ shall promptly serve the initial decision on all parties within 90 days after the time for submission of posthearing briefs and reply briefs (if permitted) has expired. The ALJ shall at the same time serve all parties with a statement describing the right of any defendant determined to be liable for a civil penalty or assessment to file a motion for reconsideration with the ALJ or a notice of appeal with the authority head. If the ALJ fails to meet the deadline contained in this paragraph, he or she shall notify the parties of the reason for the delay and shall set a new deadline.

(d) Unless the initial decision of the ALJ is timely appealed to the authority head, or a motion for reconsideration of the initial decision is timely filed, the initial decision shall constitute the final decision of the authority head and shall be final and binding on the parties 30 days after it is issued by the ALJ.

§ 1626.38 Reconsideration of initial decision.

(a) Except as provided in paragraph (d) of this section, any party may file a motion for reconsideration of the initial decision within 20 days of receipt of the initial decision. If service was made by mail, receipt will be presumed to be 5 days from the date of mailing in the absence of contrary proof.

(b) Every such motion must set forth the matters claimed to have been erroneously decided and the nature of the alleged errors. Such motion shall be accompanied by a supporting brief.

(c) Responses to such motions shall be allowed only upon request of the ALJ.

(d) No party may file a motion for reconsideration of an initial decision that has been revised in response to a previous motion for reconsideration.

(e) The ALJ may dispose of a motion for reconsideration by denying it or by issuing a revised initial decision.

(f) When a motion for reconsideration is made, the time periods for appeal to the authority head, and for finality of the ALJ's initial decision, shall begin on the date the ALJ issues the denial of the motion for reconsideration or a revised initial decision, as appropriate.

§ 1626.39 Appeal to authority head.

(a) Any defendant who has filed a timely answer and who is determined in an initial decision to be liable for a civil penalty or assessment may appeal such decision to the authority head by filing a notice of appeal with the authority head in accordance with this section.

(b) (1) No notice of appeal may be filed until the time period for filing a motion for reconsideration under § 1626.38 has expired.

(2) If a motion for reconsideration is timely filed, a notice of appeal must be filed within 30 days after the ALJ denies the motion or issues a revised initial decision, whichever applies.

(3) If no motion for reconsideration is timely filed, a notice of appeal must be filed within 30 days after the ALJ issues the initial decision.

(4) The authority head may extend the initial 30 day period for an additional 30 days if the defendant files with the authority head a request for an extension within the initial 30 day period and shows good cause.

(c) If the defendant files a timely notice of appeal with the authority head, the ALJ shall forward the record of the proceeding to the authority head.

(d) A notice of appeal shall be accompanied by a written brief specifying exceptions to the initial decision and reasons supporting the exceptions.

(e) The representative for the Government may file a brief in opposition to exceptions within 30 days of receiving the notice of appeal and accompanying brief.

(f) There is no right to appear personally before the authority head.

(g) There is no right to appeal any interlocutory ruling by the ALJ.

(h) In reviewing the initial decision, the authority head shall not consider any objection that was not raised before the ALJ unless a demonstration is made of extraordinary circumstances causing the failure to raise the objection.

(i) If any party demonstrates to the satisfaction of the authority head that additional evidence not presented at such hearing is material and that there were reasonable grounds for the failure to present such evidence at such hearing, the authority head shall remand the matter to the ALJ for consideration of such additional evidence.

(j) The authority head may affirm, reduce, reverse, compromise, remand, or settle any penalty or assessment determined by the ALJ in any initial decision.

(k) The authority head shall promptly serve each party to the appeal with a copy of the decision of the authority head and a statement describing the right of any person determined to be liable for a penalty or an assessment to seek judicial review.

(l) Unless a petition for review is filed as provided in 31 U.S.C. 3805 after a defendant has exhausted all administrative remedies under this part and within 60 days after the date on which the authority head serves the defendant with a copy of the authority head's decision, a determination that a defendant is liable under § 1626.3 is final and is not subject to judicial review.

§ 1626.40 Stays ordered by the Department of Justice.

If at any time the Attorney General or an Assistant Attorney General designated by the Attorney General transmits to the authority head a written finding that continuation of the administrative process described in this part with respect to a claim or statement may adversely affect any pending or potential criminal or civil action related to such claim or statement, the authority head shall stay the process immediately. The authority head may order the process resumed only upon receipt of the written authorization of the Attorney General.

§ 1626.41 Stay pending appeal.

(a) An initial decision is stayed automatically pending disposition of a motion for reconsideration or of an appeal to the authority head.

(b) No administrative stay is available following a final decision of the authority head.

§ 1626.42 Judicial review.

Section 3805 of Title 31, United States Code, authorizes judicial review by an appropriate United States District Court of a final decision of the authority head imposing penalties or assessments under this part and specifies the procedures for such review.

§ 1626.43 Collection of civil penalties and assessments.

Sections 3806 and 3808(b) of Title 31, United States Code, authorize actions for collection of civil penalties and assessments imposed under this part and specify the procedures for such actions.

§ 1626.44 Right to administrative offset.

The amount of any penalty or assessment which has become final, or for which a judgment has been entered under § 1626.42 or § 1626.43, or any amount agreed upon in a compromise or settlement under § 1626.46, may be collected by administrative offset under 31 U.S.C. 3716, except that an administrative offset may not be made against a refund of an overpayment of Federal taxes, then or later owing by the United States to the defendant.

§ 1626.45 Deposit in Treasury of United States.

All amounts collected pursuant to this part shall be deposited as miscellaneous receipts in the Treasury of the United States, except as provided in 31 U.S.C. 3806(g).

§ 1626.46 Compromise or settlement.

(a) Parties may make offers of compromise or settlement at any time.

(b) The reviewing official has the exclusive authority to compromise or settle a case under this part at any time after the date on which the reviewing official is permitted to issue a complaint and before the date on which the ALJ issues an initial decision.

(c) The authority head has exclusive authority to compromise or settle a case under this part any time after the date on which the ALJ issues an initial decision, except during the pendency of any review under § 1626.42 or during the pendency of any action to collect penalties and assessments under § 1626.43.

(d) The Attorney General has exclusive authority to compromise or settle a case under this part during the pendency of any review under § 1626.42 or of any action to recover penalties and assessments under 31 U.S.C. 3806.

(e) The investigating official may recommend settlement terms to the reviewing official, the authority head, or the Attorney General, as appropriate. The reviewing official may recommend settlement terms to the authority head, or the Attorney General, as appropriate.

(f) Any compromise or settlement must be in writing.

§ 1626.47 Limitations.

(a) The notice of hearing with respect to a claim or statement must be served in the manner specified in § 1626.8 within 6 years after the date on which such claim or statement is made.

(b) If the defendant fails to file a timely answer, service of notice under § 1626.10(b) shall be deemed a notice of a hearing for purposes of this section.

(c) The statute of limitations may be extended by agreement of the parties.

By order of the Chief Executive Officer.

Dated at Washington, DC, this 3rd day of November, 1992.

Resolution Trust Corporation.

John M. Buckley, Jr.,

Secretary.

[FR Doc. 92-27137 Filed 11-17-92; 8:45 am]

BILLING CODE 6714-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Chapter I

[Summary Notice No. PR-92-10]

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

AGENCY: Federal Aviation Administration (FAA), DOT.

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

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

DATES: Comments on petitions received must identify the petition docket number involved and must be received on or before January 19, 1993.

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

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

FOR FURTHER INFORMATION CONTACT: D. Michael Smith, Office of Rulemaking (ARM-1), Federal Aviation Administration, 800 Independence

Avenue, SW., Washington, DC 20591; telephone (202) 267–7470.

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

Issued in Washington, DC., on November 10, 1992.

Annette C. Pitts,

Acting Manager, Program Management Staff.

Petitions for Rulemaking

Docket No.: 26702
Petitioner: Hawkins Aero Engineering, Inc.
Regulations Affected: 14 CFR 33.4 and appendix A
Description of Petition: The petitioner proposes to require the FAA to establish standards for illustrated parts catalogs and require that these catalogs be FAA-approved.
Petitioner's Reason for the Request: The petitioner feels that this requirement would benefit everyone concerned by having one illustrated parts catalog that would clearly show which replacement parts are eligible for each engine model, and where within that model they are to be installed.

Docket No.: 27012
Petitioner: Air Transport Association
Regulations Affected: 14 CFR 25.813 and 121.310
Description of Petition: The petitioner proposes to change the compliance date and the provisions and deviation guidelines of the emergency exit access requirements.
Petitioner's Reason for the Request: The petitioner states that recent FAA evacuation tests contradict the assumptions of the rule and that the regulatory impact analysis that accompanied the rule underestimates the costs of compliance with the rule.

[FR Doc. 92–27921 Filed 11–17–92; 8:45 am]
BILLING CODE 4910–13–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

[Docket No. FEMA–7055]

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are requested on the proposed base (100-year) flood elevations and proposed base flood elevation modifications for the communities listed below. The base (100-year) flood elevations are the basis for the floodplain management measures that the community is required either to adopt or to show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The comment period is ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in each community.

ADDRESSES: The proposed base flood elevations for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the following table.

FOR FURTHER INFORMATION CONTACT: William R. Locke, Chief, Risk Studies Division, Federal Insurance Administration, 500 C Street SW., Washington, DC 20472, (202) 646–2766.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA or Agency) gives notice of the proposed determinations of base (100-year) flood elevations and modified base flood elevations for each community listed, in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR 67.4(a).

These base flood and modified base flood elevations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own, or pursuant to policies established by other Federal, state or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents.

National Environmental Policy Act

This proposed rule is categorically excluded from the requirements of 44 CFR part 10, Environmental Consideration. No environmental impact assessment has been prepared.

Regulatory Flexibility Act

The Federal Insurance Administrator has determined that this proposed rule is exempt from the requirements of the Regulatory Flexibility Act because proposed or modified base flood elevations are required by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and are required to establish and maintain community eligibility in the National Flood Insurance Program. As a result, a regulatory flexibility analysis has not been prepared.

Regulatory Impact Analysis

This proposed rule is not a major rule under Executive Order 12291, February 17, 1981. No regulatory impact analysis has been prepared.

Executive Order 12612, Federalism

This proposed rule involves no policies that have federalism implications under Executive Order 12612, Federalism, dated October 26, 1987.

Executive Order 12778, Civil Justice Reform

This proposed rule meets the applicable standards of section 2(b)(2) of Executive Order 12778.

List of Subjects in 44 CFR Part 67

Administrative practice and procedure, Flood insurance, Reporting and recordkeeping requirements.

Accordingly, 44 CFR part 67 is proposed to be amended as follows:

PART 67—[AMENDED]

1. The authority citation for part 67 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.;* Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§ 67.4

2. The tables published under the Authority of § 67.4 are proposed to be amended as follows:

PREPARED BASE (100=YEAR) FLOOD ELEVATIONS

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)
NEW YORK	
Cicero (town), Onondaga County	
Volmer Creek:	
Approximately 760 feet downstream of Mud Hill Road	*373
Approximately 0.5 mile upstream of Grandview Drive	*409
Button Brook:	
At confluence with Volmer Creek	*385
Approximately 1100 feet upstream of South Bay Road	*416
Thompson Brook:	
At confluence with Pine Grove Brook	*381
Approximately 40 feet upstream of State Route 82 (Northern Boulevard)	*397
Rosewood Brook:	
At confluence with Thompson Brook	*391

PREPARED BASE (100=YEAR) FLOOD ELEVATIONS—Continued

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)
Approximately 1,100 feet upstream of Leroy Road	*400
Hancock Brook:	
At confluence with Thompson Brook	*392
Approximately 1,800 feet upstream of confluence with Thompson Brook	*392
Totman Brook:	
At confluence with Thompson Brook	*391
Approximately 35 feet upstream of upstream crossing of Totman Road	*412
Pine Grove Brook:	
Approximately 1,500 feet downstream of U.S. Route 11	*375
At downstream face of Penn Can Mall culvert system	*382
North Branch Pine Grove Brook:	
Approximately 160 feet downstream of Interstate Route 81	*386
Approximately 35 feet upstream of Thompson Road	*411
South Branch Pine Grove Brook:	
At South Bay Road	*386
Approximately 30 feet upstream of Thompson Road	*406

PREPARED BASE (100=YEAR) FLOOD ELEVATIONS—Continued

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)
Maps available for inspection at the Cicero Town Hall, 8236 S. Main Street, Cicero, New York.	
Send comments to Mr. Len Brown, Supervisor of the Town of Cicero, Onondaga County, P.O. Box 1517, Cicero, New York 13039.	
PENNSYLVANIA	
Buckingham (township), Wayne County	
Delaware River:	
At corporate limits	*873
At confluence of East and West Branches Delaware River	*904
West Branch Delaware River:	
At confluence of Delaware River	*904
At corporate limits	*938
Maps available for inspection at the home of Ms. Marilyn Ryan, Township Secretary, Star Route, 20 Jerico Road, Lake Como, Pennsylvania.	
Send comments to Mr. Stanley Spangenberg, Chairman of the Township of Buckingham Board of Supervisors, Wayne County, Lake Como, Pennsylvania 18461	
Washington (township), Westmoreland County	
At downstream corporate limits	*987
Approximately 130 feet upstream of North Washington Road	*1,063
Maps available for inspection at the Township Building, 285 Pine Run Church Road, Apollo, Pennsylvania.	
Send comments to Mr. Scott Saul, Chairman of the Township of Washington Board of Supervisors, Westmoreland County, 285 Pine Run Church Road, Apollo, Pennsylvania 15613.	

§ 67.4 [Amended]

3. The tables published under the authority of § 67.4 are proposed to be amended as follows:

State	City/town/county	Source of flooding	Location	Depth in feet above ground *Elevation in feet (NGVD)	
				Existing	Modified
California	City of Temecula, Riverside County.	Temecula Creek	Approximately 270 feet upstream of Dala Road	*1,002	*1,002
			Approximately 1,070 feet upstream of Dala Road	*1,003	*1,006
			Approximately 1,670 feet upstream of Dala Road	*1,006	*1,009
			Approximately 2,270 feet upstream of Dala Road	*1,010	*1,014
			Approximately 2,970 feet upstream of Dala Road	*1,015	*1,018
			Approximately 4,070 feet upstream of Dala Road	None	*1,024
			Approximately 5,070 feet upstream of Dala Road	None	*1,030
Maps are available for review at the City of Temecula Department of Public Works, 43174 Business Park Drive, Temecula, California. Send comments to The Honorable Ron Parks, Mayor, City of Temecula, 43174 Business Park Drive, Temecula, California 92590.					
Maine	Glenburn, town, Penobscot County.	Kenducskeag Stream	At downstream corporate limits	None	*92
			Upstream corporate limits	None	*106
Maps available for inspection at the Town Office, Lakeview Road, R.F.D. 1, Box 1375, Bangor, Maine. Send comments to Mr. Peter D. Chase, Manager of the Town of Glenburn, Penobscot County, Lakeview Road, R.F.D. 1, Box 1375, Bangor, Maine 04401-9433.					
Maine	Guilford, town, Piscataquis County.	Piscataquis River	At downstream corporate limits	*364	*367
			At upstream corporate limits	*399	*401
		Schoolhouse Brook	At confluence with Piscataguis River	*388	*391
			At approximately 50 feet downstream of the most upstream crossing of North Guilford Road (State Route 150).	*440	*439
		First Davis Pond	Entire shoreline within community	None	*443
		Second Davis Pond	Entire shoreline wihtin community	None	*443
Maps available for inspection at the Town Office, Guilford, Maine. Send comments to Mr. Robert Littlefield, Manager for the Town of Guilford, Piscataquis County, P.O. Box 355, Guilford, Maine 04443.					
Minnesota	Chisago County, unincorporated areas.	South Center Lake	Entire shoreline	*903	*901
		North Center Lake	Entire shoreline	*903	*901
		North Lindstrom Lake	Entire shoreline	*903	*901
		South Lindstrom Lake	Entire shoreline	*903	*901
		Chisago Lake	Entire shoreline	*903	*901
		Lake Emily	Entire shoreline	None	*895
		Ogren Lake	Entire shoreline	None	*901

State	City/town/county	Source of flooding	Location	Depth in feet above ground *Elevation in feet (NGVD)	
				Existing	Modified
	Maps available for inspection at the Chisago County Building, 313 North Main, Room 174, Center City, Minnesota 55012. Send comments to Bob Anderson, Chairman of the Chisago County Board of Commissioners, 313 North Main Street, Room 174, Center City, Minnesota 55012.				
Missouri	Village of Riverview, St. Louis County.	Maline Creek	About 360 feet upstream of Riverview Drive	None	*433
			About 1,160 feet downstream of Bellefontaie Road.	None	*436
	Maps available for inspection at the Village Hall, 9699 Lilac, St. Louis, Missouri. Send comments to The Honorable Ellen Wollenburg, Village Chairman, Village of Riverview, 9699 Lilac, St. Louis Missouri 63167.				
New York	Gates Town Monore County.	Long Pond Creek	Upstream of Detention Pond Outlet (approximately 1,320 feet downstream of Lyell Road).	*548	*549
			Approximately 1,100 feet upstream of Lyell Road.	None	*558
		Long Pond Creek Tributary	Just upstream of State Route 31 (Supencerport Road).	*542	*541
			At upstream side of Lyell Road	None	*550
		Elmford Creek	At confluence with Round Pond Creek (corporate limits).	None	*517
			Upstream side of Lyell Road	None	*586
		Round Pond Creek	At confluence of Elmford Creek (corporate limits).	None	*517
			At Manitou Road	None	*571
	Maps available for inspection at the Department of Public Works, Gates Town Hall, 1605 Buffalo Road, Rochester, New York 14624. Send comments to Mr. Ralph J. Esposito, Supervisor of the Town of Gates, Monroe County, 1605 Buffalo Road, Rochester, New York 14264.				
New York	Watertown, City Jefferson County	Cold Creek	At Hunt Street	*508	*510
			Approximately 50 feet downstream of Gifford Street.	*514	*513
	Maps available for inspection at the City Engineers Office, Municipal Building, 245 Washington Street, Room 305, Watertown, New York. Send comments to The Honorable Jeff Graham, Mayor of the City of Watertown, Jefferson County, 245 Washington Street, Watertown, New York 13601.				
New York	Watertown, Town Jefferson County	Cold Creek	At confluence with the Black River	*496	*495
			Approximately 50 feet downstream of the most upstream crossing of State Route 12 (Gifford Street).	*530	*531
	Maps available for inspection at the Code Enforcement Office, 6873 Brookside Drive, Watertown, New York. Send comments to Mr. Ralph Green, Supervisor of the Town of Watertown, Jefferson County, 6873 Brookside Drive, Watertown, New York 13601.				
Ohio	Village of Bellville, Richland County.	Clear Fork Mohican River	About 1,100 feet downstream of Hines Avenue	None	*1,118
			Just upstream of Abandoned Railroad	None	*1,131
	Maps available for inspection at the Village Hall, 142 Park Place, Bellville, Ohio. Send comments to The Honorable Carolyn Studenmund, Mayor, Village of Bellville, Village Hall, 142 Park Place, Bellville, Ohio 44813.				
Ohio	Village of Mount Gilead, Morrow County.	Whetstone Creek	About 0.5 mile downstream of Cardington Road.	None	1,049
			Just downstream of State Route 95	None	*1,091
	Maps available for inspection at the Municipal Building, 72 West High Street, Mt. Gilead, Ohio. Send comments to The Honorable Kenneth Kennedy, Mayor, Village of Mt. Gilead, 72 West High Street, Mt. Gilead, Ohio 43338.				
Oklahoma	Sand Springs, city, Tulsa & Osage Counties.	Anderson Creek	At confluence with Fisher Creek	*655	*656
			Approximately 750 feet upstream of confluence with Fisher Creek.	*657	*660
		Blackboy Creek	Approximately 1,575 feet downstream 81st W. Avenue.	*658	*657
			Approximately 1.4 miles upstream of Old North Road.	None	*792
		Euchee Creek	Approximately 0.4 mile upstream of U.S. Route 64.	*659	*661
			Approximately 1.1 miles upstream of Willow Street.	*689	*692
		Fisher Creek	Approximately 200 feet upstream of confluence with Arkansas River.	*659	*649
			Approximately 1,600 feet upstream of confluence with Arkansas River.	*650	*649
		Blackboy Creek	Approximately 400 feet upstream of the downstream corporate limits.	None	*674
			Approximately 130 feet upstream of the upstream corporate limits.	None	*722

State	City/town/county	Source of flooding	Location	Depth in feet above ground *Elevation in feet (NGVD)	
				Existing	Modified
Maps available for inspection at the Sand Springs Municipal Building, 100 East Broadway Street, Sand Springs, Oklahoma 74063. Send comments to The Honorable A. Lyle Crowder, Mayor of the City of Sand Springs, Tulsa and Osage Counties, Municipal Building, 100 East Broadway Street, Sand Springs, Oklahoma 74063.					
Texas	Burleson, City, Johnson and Tarrant.	Hurst Creek	Approximately 640 feet downstream of County Road 601.	None	*721
			Approximately 60 feet upstream of Frontage Road to Westbound Interstate Route 35.	None	*754
		Little Booger Creek	Approximately 0.7 mile upstream of Southwest Thomas Road.	*747	*746
			Approximately 1.54 miles upstream of Southwest Thomas Road.	None	*771
		South Shannon Creek	Approximately 615 feet downstream of Atchison, Topeka & Santa Fe Railway.	None	*799
			Approximately 565 feet downstream of Atchison, Topeka & Santa Fe Railway.	None	*699
Maps available for inspection at the City Hall, Engineering Department, 141 West Renfro Street, Burleson, Texas. Send comments to The Honorable Rick Roper, Mayor of the City of Burleson, Johnson and Tarrant Counties, City Hall, 141 West Renfro Street, Burleson, Texas 76028.					
Texas	Grand Prairie, city, Dallas, Tarrant, and Ellis Counties.	Cottonwood Creek	Approximately 250 feet upstream of Southwest 3rd Street.	*483	*482
			Approximately 45 feet upstream Dallas-Tarrant County boundary.	*511	*509
Maps available for inspection at the Department of Public Works, 317 College, Grand Prairie, Texas. Send comments to The Honorable Charles England, Mayor of the City of Grand Prairie, Tarrant, Dallas, and Ellis Counties, 317 West College, Grand Prairie, Texas 75050.					
Texas	Wichita Falls, City Wichita County.	Wichita River	Approximately 1.9 miles downstream of River Road.	*937	*939
			Approximately 1.5 miles upstream of confluence of Plum Creek	*953	*955
		Holliday Creek	At the conclusion with Wichita River	*938	*939
			At the upstream corporate limits	*978	*982
		Holliday Creek Tributary A	At confluence with Holliday Creek	*946	*939
			Approximately 150 feet downstream of north access road and Central Freeway.	*975	*974
		Lake Wichita Tributary	Approximately .4 mile upstream of confluence with Lake Wichita.	*987	*986
			Approximately 600 feet upstream of Briargrove Drive.	None	*1,012
		Loch Lomand Creek (previously called Holliday Tributary B).	Confluence with Holliday Creek	*946	*939
			Approximately 100 feet upstream of corporate limits.	None	*974
		McGrath	At the confluence with Holliday Creek	*951	*944
			Approximately 100 feet downstream of Hughes Drive.	*984	*985
		McGrath Creek Tributary A (previously called McGrath Creek Tributary).	At confluence with McGrath Creek	*966	*969
			Approximately 0.19 mile upstream of McNeil Avenue.	*995	*996
		McGrath Creek Tributary B	Confluence with McGrath Creek Tributary A	None	*973
			Approximately 0.15 mile upstream of Garfield Street.	None	*987
		East Plum Creek	Confluence with Wichita River	*940	*941
			Approximately 300 feet upstream of Fort Worth & Denver Railway bridge.	None	*952
		Plum Creek	Approximately .4 mile upstream of confluence with Wichita River.	*953	*952
			Approximately 0.27 mile upstream of Central Freeway.	None	*1,024
		Brenda Hursh Creek	At confluence with Holliday Creek	*950	*941
			Approximately 650 feet upstream of Dunbarton Road.	None	*969
		Brenda Hursh Channel	At the confluence with Brenda Hursh Creek	*954	*956
			Approximately 100 feet downstream of Weeks Street.	*955	*956
		Holliday Creek Old Channel	At the confluence with Holliday Creek	*960	*961
Maps available for inspection at the Planning Department, Room 401, Wichita Falls City Hall, 1300 7th Street, Wichita Falls, Texas. Send comments to Mr. Jim Berzina, Manager of the City of Wichita Falls, Wichita County, P.O. Box 1431, Wichita Falls, Texas 76307.					

(Catalog of Federal Domestic Assistance No. 83.100, "Flood Insurance")

Issued: November 9, 1992.

C.M. "Bud" Schauerte,

Administrator, Federal Insurance Administration.

[FR Doc. 92-27823 Filed 11-17-92; 8:45 am]

BILLING CODE 6718-03-M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Chapter V

[Docket No. 92-64, Notice 1]

RIN 2127-AE63

Motor Vehicle Content Labeling

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Request for comments; notice of public meeting.

SUMMARY: Congress recently enacted the American Automobile Labeling Act, which amended Title II of the Motor Vehicle Information and Cost Savings Act. As amended, Title II requires that all new passenger cars (regardless of weight), and all multipurpose passenger vehicles and light duty trucks that are rated at 8,500 pounds gross vehicle weight or less, manufactured on or after October 1, 1994, bear labels providing information regarding the extent to which their parts are of domestic origin. Pursuant to the new statutory requirements, NHTSA must issue regulations specifying the procedures for manufacturers to follow in determining the percentage (by value) of the components of their vehicles that originated in the United States and Canada. The regulations must also specify the form and content requirements for motor vehicle labeling and require components suppliers to certify the origin of their components. The agency is seeking public comments and conducting a public meeting in order to obtain information that will assist it in developing proposed regulations.

DATES: *Public Meeting:* A public meeting to receive oral comments concerning the new requirements for motor vehicle content labeling will be held on December 17, 1992, at 8:30 a.m. Persons wishing to make oral presentations at the public hearing should contact Mr. Nelson Gordy, at the address or telephone number listed below, by December 10, 1992. Persons making oral presentations are requested, but not required, to submit 25 written copies of the full text of their presentation no later than the day before the meeting.

Written Comments: Written comments must be received on or before December 28, 1992.

ADDRESSES: *Public Meeting:* The December 17, 1992 public meeting will be held in room 2230, Nassif Building, 400 Seventh Street SW., Washington, DC.

Written Comments: All written comments must refer to the docket and notice numbers set forth above and be submitted (preferably in 10 copies) to the Docket Section, National Highway Traffic Safety Administration, room 5109, 400 Seventh Street SW., Washington, DC 20590. Submissions containing information for which confidential treatment is requested should be submitted (three copies) to Chief Counsel, National Highway Traffic Safety Administration, room 5219, 400 Seventh Street SW., Washington, DC 20590, and seven additional copies from which the purportedly confidential information has been deleted should be sent to the Docket Section.

FOR FURTHER INFORMATION CONTACT: Mr. Nelson Gordy, Office of Market Incentives, National Highway Traffic Safety Administration, room 5313, 400 Seventh Street SW., Washington, DC 20590. (202) 366-4797.

SUPPLEMENTARY INFORMATION: Congress enacted the American Automobile Labeling Act as part of the Department of Transportation and Related Agencies Appropriation Act for Fiscal Year 1993, Pub. L. 102-388. The Labeling Act amends Title II of the Motor Vehicle Information and Cost Savings Act ("Cost Savings Act"), by adding a new section 210. That section requires that new "passenger motor vehicles" manufactured on or after October 1, 1994, bear labels providing information regarding the extent to which their parts are of domestic origin.

The term "passenger motor vehicle," defined in section 2(1) of the Cost Savings Act as a motor vehicle with motive power, designed for carrying 12 persons or less, is amended for purposes of section 210 to include any "multipurpose passenger vehicle" and "light duty truck" that is rated at 8,500 pounds gross vehicle weight rating or less. Thus, the new motor vehicle content labeling requirements apply to passenger cars, light trucks, and multipurpose passenger vehicles. Motorcycles are excluded.

The basic labeling requirement is set forth in section 210(b). That section requires that each manufacturer of a new passenger motor vehicle distributed in commerce for sale in the United States shall annually establish for each model year and cause to be affixed, and each dealer shall cause to be maintained, on each such vehicle manufactured on or after October 1, 1994, in a prominent place, one or more labels indicating the following:

(1) The percentage (by value) of passenger motor vehicle equipment installed on such vehicle within a carline which originated in the United States and Canada to be identified with the words "U.S./Canadian content";

(2) The final assembly point by city, state (where appropriate), and country;

(3) In the case of any country (other than the United States and Canada) in which 15 percent or more (by value) of equipment installed on passenger motor vehicles within a carline originated, indicating the names of at least the two countries in which the greatest amount (by value) of such equipment originated and the percentage (by value) of the equipment originating in each such country;

(4) the country of origin of the engine;

(5) the country of origin of the transmission.

Several points should be noted regarding the calculation of U.S./Canadian content. First, it must be completed before the beginning of each model year. Second, with the exception of the items (2), (4) and (5) regarding the final assembly point of the vehicle, and the country of origin of the engine and of the transmission, the content is to be calculated for each carline as a whole, instead of for each individual vehicle.

Third, section 210(f)(10)(A) does not allow costs incurred or profits made at the final assembly point and beyond (e.g., assembly, labor, advertising, interest payments, etc.) to be included in the calculation of value added in the U.S./Canada. Other post-assembly costs such as freight, insurance, packing, transportation, duties, taxes, and brokerage fees are to be treated similarly. For example, costs associated with shipping completed vehicles from the final assembly point to dealers are excluded from that calculation. Pre-final assembly costs (including such costs as freight to the final assembly plant) are included in calculations of value.

Fourth, manufacturers will have to keep track of the country-by-country breakdown of equipment content received from both allied and outside suppliers. This is true for outside suppliers, despite the "roll-up roll-down" provisions of the Automobile Labeling Act. Under section 210(f)(5)(A), equipment received from outside suppliers must be at least 70 percent U.S./Canadian value added in order to be considered U.S./Canadian. If it reaches that threshold, it is considered to be 100 percent U.S./Canadian, Any equipment from outside suppliers falling blow the threshold will be considered 0 percent U.S./Canadian for purposes of determining the overall percentage of U.S./Canadian value of the vehicle. However, due to section 210(b)(1)(C), if

a country other than the U.S./Canadian is responsible for 15 percent or more of the vehicle's total value, the label must list the two countries which provided the greatest amount (by value) of the equipment, and the percentages they provided. Manufacturers and outside suppliers must therefore keep records of the value of the actual input, by country, for all items of equipment, for labeling purposes, notwithstanding the 70 percent rule on overall vehicle content valuation.

The Department of Transportation is required to promulgate regulations to implement the content labeling requirements. Section 210(c) requires the promulgation of regulations which specify the form and content of the required labels, and the manner and location in which the labels must be affixed. Section 210(d) requires promulgation of such regulations as may be necessary to carry out the labeling requirements, including regulations to establish a procedure to verify the required labeling information. That section directs also that such regulations provide the ultimate purchaser of a new passenger motor vehicle with the best and most understandable information possible about the foreign and U.S./Canada origin of the equipment of such vehicles without imposing costly and unnecessary burdens on the manufacturers. Finally, section 210(d) also specifies that the regulations include provisions requiring suppliers to certify whether their components are of U.S., U.S./Canadian, or foreign origin.

Section 210(d) directs that the regulations be promulgated in time to provide adequate compliance leadtime before content labeling becomes mandatory on October 1, 1994. In addition, to encourage voluntary labeling before that date, the conference report strongly urges that the regulations be promulgated even more expeditiously. H. Rep. 102–924 at 74.

NHTSA plans to develop the proposed regulations as quickly as possible. The agency is issuing this notice in order to obtain information that will assist it in developing proposed regulations.

The appendix to this document consists of questions regarding the regulations necessary to implement the content labeling requirements. The agency invites comments from all interested parties. It is requested but not required that 10 copies be submitted. NHTSA is providing a 40-day comment period due to the need to develop the proposed regulations as quickly as possible.

All comments received before the close of business on the comment closing date indicated above will be considered and will be available for examination in the docket at the above address. To the extent possible, comments filed after the closing date will also be considered. NHTSA will continue to file relevant material in the docket as it becomes available after the closing date, and it is recommended that interested persons continue to examine the docket for new material.

If a commenter wishes to submit certain information under a claim of confidentiality, three copies of the complete submission, including purportedly confidential information, should be submitted to the Chief Counsel, NHTSA, at the street address given above, and seven copies from which the purportedly confidential information has been deleted should be submitted to the Docket Section. A request for confidentiality should be accompanied by a cover letter setting forth the information specified in the agency's confidential business information regulation (49 CFR part 512).

Persons wishing to make oral presentations at the public meeting should contact Mr. Nelson Gordy, at the above street address, by December 10, 1992, so that time limitations (if necessary) and the need for any special equipment, such as projectors, can be discussed and final arrangements can be made. Persons whose presentations will include slides, motion pictures, or other visual aids should submit copies of them for the period at the meeting. Oral presentations will be limited to between five and 15 minutes, depending on the number of witnesses. If the number of requests for oral presentation exceeds the available time, the agency may ask prospective witnesses having similar views or belonging to similar types of groups or occupations to combine their presentations.

Persons making oral presentations are requested, but not required, to submit 25 written copies of the full text of their presentation to Mr. Nelson Gordy no later than the day before the meeting. If time permits, persons who have not requested time, but would like to make a statement, will be afforded an opportunity to do so at the end of the day's schedule. Copies of all written statements will be placed in the docket for this notice. A verbatim transcript of the public meeting will be prepared and also placed in the NHTSA docket as soon as possible after the meeting. A schedule of the persons making oral presentations at the meeting will be available at the designated meeting area at the beginning of the public meeting.

No opportunity will be afforded the public to directly question participants in the meeting. However, the public may submit written questions to the panel of Federal officials for the panel to consider asking of particular participants. The presiding officials reserve the right to ask questions of all persons making oral presentations.

NHTSA will provide auxiliary aids to participants as necessary, during the meeting. Thus, any person desiring assistance of "auxiliary aids" (e.g., sign-language interpreter, telecommunications, devices for deaf persons (TDDs), readers, taped texts, braille materials, or large print materials and/or a magnifying device), please contact Nelson Gordy at (202) 366–4797 by December 10, 1992.

Those persons desiring to be notified upon receipt of their comments in the rules docket should enclose, in the envelope with the comments, a self-addressed stamped postcard. Upon receiving the comments, the docket supervisor will return the postcard by mail. (Sec. 355, Pub. L. 102–388, delegation of authority at 49 CFR 1.50.)

Issued on November 13, 1992.

Barry Felrice,

Associate Administrator for Rulemaking.

Appendix

1. Section 210(d) of the Cost Savings Act specifies that the implementing regulations provide consumers with the best and most easily understandable information possible regarding the national origin of automotive equipment (i.e., US/Canada or "foreign") without imposing costly and unnecessary burdens on manufacturers. What information should be required and how should costs and compliance burdens be minimized for manufacturers, suppliers, and consumers? Please be specific in quantifying and describing the various costs and burdens as well as the provision in section 210 that will cause each.

2. A major goal in NHTSA's efforts to minimize costs and burdens will be to minimize the extent to which its implementation of the content labeling program adds to costs already borne by manufacturers, suppliers and others under existing or pending programs or international agreements entailing domestic content or country of origin determinations. Examples of these programs and agreements are the corporate average fuel economy (CAFE) program and the United States/Canada Free Trade Agreement (US/C FTA). How can this agency best accomplish that goal? To what extent can NHTSA develop regulations that parallel those of the agencies responsible for implementing those programs and agreements? To what extent can NHTSA simplify its task even more and limits its rulemaking to supplementing the regulations of those agencies where necessary to implement the content labeling program?

3. *Country of origin and calculation of value.*

a. To what extent can NHTSA adopt content labeling regulations that parallel the

Environmental Protection Agency's (EPA) procedures regarding determination of domestic content for the purposes of the CAFE program? See EPA's regulations at 40 CFR 600.511–80. For example, would regulations identical to the current EPA CAFE provisions enable a manufacturer to calculate domestic/foreign content before the beginning of a model year, as required by section 210(b)(2) of the Cost Savings Act? Would regulations identical to the EPA CAFE provisions enable a manufacturer to calculate accurately, for the purposes of the content labeling program, the domestic/foreign content of:

Engine and transmission options that have different source countries and percentages of foreign components?

Other optional equipment?

b. To what extent can the Customs Service's provisions regarding determination of U.S./Canadian origin, pursuant to the Automotive Products Act of 1965 and/or US/C FTA, be used without modification for the purposes of the Cost Savings Act's new content labeling program? See 19 CFR 10.301 et seq. To the extent that modifications in the Customs Service's provisions would be necessary in order to implement the content labeling program, what would those modifications be and why would they be necessary? What costs would implementing those modifications add to the costs already borne by manufacturers and suppliers? Please be as specific as possible in responding to this question. Would Customs' provisions related to recordkeeping for the US/C FTA ensure that appropriate records are kept for the content labeling program?

c. The determination of value will be solely in U.S. currency, and the percentages of U.S./Canadian and foreign content will be determined, under section 210(b)(2), at the beginning of each model year. Should currency conversion rates be based on a single quarterly Customs Service rate for a quarter closely preceding the model year, some average of recent quarterly rates, or some other basis?

4. *Recordkeeping.*

a. Are there EPA CAFE provisions related to recordkeeping that this agency should adopt for the content labeling program?

b. Should NHTSA adopt recordkeeping regulations similar to the Customs Service's recordkeeping regulations for implementing the US/C FTA?

t. *Verification.* Section 210(d) of the Cost Savings Act requires the establishment of procedures to verify the labeling information required by section 210. What specific procedures should be established to verify information (e.g., purchase price and country of origin) furnished by vehicle manufacturers, suppliers and others? Discuss outside and allied suppliers separately. Should NHTSA adopt verification requirements similar to the Customs Service's verification requirements for implementing the US/C FTA?

6. *Certification.* Section 210(d) mandates the establishment of provisions requiring suppliers to certify whether each component they provide to final manufacturers originated in the U.S./Canada, or is of "foreign" origin (i.e., not from the U.S./Canada), and to provide such other information as may be necessary to enable the vehicle manufacturer to reasonably rely on such certifications, and thus comply with the labeling requirements. What requirements should be established regarding the information to be certified and the manner and form of that certification? Should NHTSA adopt certification requirements similar to the Customs Service's certification requirements for implementing the US/C FTA? What additional information would be necessary?

7. To the extent that your answers to any of questions 2 through 6 suggest that NHTSA would need to adopt regulations that differ from the EPA or Customs Service regulations in order to implement the content labeling program, what would those differences be and why would they be necessary? What costs would implementing those differing regulations add to the costs already borne by manufacturers and suppliers? Please be as specific as possible in responding to this question.

8. *Label form, content, and location.* Section 210(c) of the Cost Savings Act states that regulations must be issued prescribing the form and content of the required label and the manner and location in which it shall be affixed. The section also states that manufacturers shall be permitted to place the required information on the label required by section 3 of the Automobile Information Disclosure Act (price sticker), or the label required by section 506 of the Cost Savings Act (gas mileage label), or on a readily visible separate label. What requirements would be needed to ensure that if the content information is added to one of the existing labels, it is added in such a way that it is sufficiently highlighted without detracting from the message already on those labels?

9. Under section 210(b)(1)(A), a manufacturer must indicate on the label the percentage by value of equipment that originated in the U.S./Canada. Section 210(f)(5) provides different valuation methods for outside and allied suppliers. Comment on the following simplified example illustrating each of those methods.

Example: In the United States, a manufacturer assembled a vehicle valued at $9,000 out of three purchased components: (1) An engine purchased for $3,000 with 60 percent U.S./Canadian value added; (2) a transmission purchased for $1,000 with 75 percent U.S./Canadian value added; and (3) a body purchased for $5,000 with 45 percent U.S./Canadian value added.

a. *Outside suppliers:* Outside supplier equipment of U.S./Canadian origin is defined in section 210(f)(5)(A) as equipment which contains at least 70 percent value added in the U.S./Canada. Thus, any piece of equipment that is at least 70 percent U.S./Canadian is to be valued at 100 percent U.S./Canadian, and any equipment under 70 percent is valued at 0 percent. If all suppliers in the example cited above were outside suppliers, the automobile would be valued at 11 percent U.S./Canadian. The engine and body, both being under 70 percent U.S./Canadian, would be considered 0 percent, and the transmission, at 75 percent, would be considered as 100 percent. Thus, out of a total value of $9,000, only $1,000 would be considered of U.S./Canadian origin. On the label, the car may be listed as either 11 or 10 percent U.S./Canadian value, under section 210(b)(2), which allows manufacturers to round off to the nearest 5 percent.

b. *Allied suppliers:* Under section 210(f)(5)(B), for equipment from allied suppliers, manufacturers must determine the actual amounts of U.S./Canadian and foreign percentages. The agency assumes a technical error in this section, substituting the phrase "the domestic content" in the second line of the section, for the current phrase, "the foreign content." Thus, if all suppliers in the example were allied suppliers, the automobile would be considered 53 percent U.S./Canadian. The engine, with 60 percent of its $3,000 value originating in the U.S./Canada, would be valued at $1,800 U.S./Canadian for this purpose. The transmission (75 percent of $1,000) would be valued at $750 U.S./Canadian, and the body (45 percent of $5,000) at $2,250 U.S./Canadian. Thus, the U.S./Canadian value would be $4,800 out of a total value of $9,000. If the result were rounded, the manufacturer could list the vehicle as 55 percent U.S./Canadian value.

10. *Other questions.*

a. Under the content labeling program, how should equipment from allied suppliers be treated differently from equipment from outside suppliers regarding the following:

The determination of U.S./Canadian content (required by section 210(b)(1)(A))?

The determination of overall content originating in a country other than the U.S./Canada (required, in certain circumstances, by section 210(b)(1)(C))?

In addition, in making these two types of determinations, what treatment should NHTSA give the situation in which a foreign subsidiary provides equipment to a domestic subsidiary that adds value and then provides equipment to a domestic assembly plant?

b. Should there be any significant difference between allied and outside suppliers with respect to the recording of foreign content for the content labeling program? Do the regulations implementing section 210 need to detail separate accounting procedures for each type of supplier?

c. Should components produced at the same location as the final assembly plant, e.g., body panels produced in an integrated production plant, be treated as coming from a allied supplier or as part of the final assembly process?

d. Under the content labeling program, how should the determination of overall U.S./Canadian content differ from the determination of overall content originating in countries other than the U.S./Canada?

e. Would any special compliance problems be encountered by final or intermediate stage manufacturers of multi-stage vehicles? Should alterers of completed vehicles be exempt from the labeling requirements of the Act?

f. Should any minor items, in addition to the attachment hardware already exclude by section 210, be excluded from the term "component"? For example, should paint and sealer be excluded?

g. Do light trucks require special definitions of their "carlines"? Should utility vehicles and pickups be counted as the same carline if they have common engines, transmissions, and front-end sheet metal? (For example, should the Chevrolet S–10 pickup and the S–10 Blazer be treated as part of the same carline?) Should 2–wheel drive and 4-wheel drive versions of a light truck be treated as separate "carlines"? Should vans be placed in different carlines than those including pickups by viture of their unique body stampings, even though they may have many chassis parts, including engines, transmissions, axles, exhaust systems, and suspension systems in common?

h. How does the "total purchase price" of equipment compare with the wholesale price of equipment? "Total purchase price" is the sum of the costs of all the components of vehicle just before it goes into the final assembly point. The agency requests manufactures to cite specific examples from their present carlines where they provide a "total purchase price" and a detailed description of how each "total purchase price" was calculated. How does the "total purchase price" in the Act compare to the EPA's "cost of production" in 40 CFR 600.502–81(a)(2)?

[FR Doc. 92–27920 Filed 11–13–92; 12:58 pm]
BILLING CODE 4910–59–M

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49 CFR Part 571

[Docket No. 91–49; Notice 2]

RIN 2127–AE29

Federal Motor Vehicle Safety Standards for Electric Vehicles

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Discussion of comments received in response to an advance notice of proposed rulemaking.

SUMMARY: This notice discusses comments received in response to that portion of an advance notice of proposed rulemaking requesting views on whether this agency should initiate rulemaking to establish new Federal Motor Vehicle Safety Standards written specifically for electric vehicles. The agency has concluded that it would be premature at this time to initiate such rulemaking.

ADDRESSES: The material referred to in this notice is available for review in the Docket Section, National Highway Traffic Safety Administration, room 5109, 400 Seventh Street SW., Washington, DC 20590. Docket hours are 9:30 a.m. to 4 p.m. Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Charles Hott, Office of Vehicle Safety Standards, NHTSA ((202)–366–0247).

SUPPLEMENTARY INFORMATION:

I. Introduction

On December 27, 1991, the National Highway Traffic Safety Administration (NHTSA) published an Advance Notice of Proposed Rulemaking (ANPRM) that reviewed the safety needs of electrically powered vehicles (EVs) and considered possible rulemaking (56 FR 67038). The agency took this action in response to the increasing attention being given EVs as a means of achieving a cleaner and healthier environment. Due primarily to Federal and State requirements based upon environmental considerations, EVs appear likely to be introduced into the nation's motor vehicle fleet in significant numbers within the next 3 to 5 years.

The purpose of the ANPRM was to seek comments on any existing safety standards that might need to be amended to address EV safety problems, and any new standards that might need to be developed specifically for EVs. This notice addresses the comments received in response to NHTSA's request for information as to the need for new standards to address safety problems unique to EVs. Subsequent notices will address the modification of existing standards.

New Standards to Address Potentially Unique Electric Vehicle Safety Hazards

As NHTSA noted in the ANPRM, new federal EV safety standards may be needed to address potential safety hazards associated with routine servicing of the vehicles, re-charging of the battery systems, and crashworthiness and crash avoidance problems. The agency was concerned whether routine service and recharging safety hazards could result from the possibility of a malfunction of the propulsion systems such as a short circuit, and, if so, whether regulatory action was required. Most of the drive motors make very little noise compared to internal combustion engines. This may result in a safety hazard for pedestrians, particularly when an EV is backing up. Also, acceleration performance of some EVs, which has been poor in comparison to conventional vehicles, may cause these vehicles to pose a safety hazard when operating on limited access roads and while merging into high speed traffic. Crashworthiness safety hazards unique to EVs may be primarily associated with the possibility that battery system components, chemicals, and electrical energy may not be contained during a collision.

In connection with the Department of Energy's (DOE) development and demonstration program mandated by Public Law 94–413, The Electric and Hybrid Vehicle Research, Development, and Demonstration Act, DOE adopted several crash avoidance and crashworthiness safety regulations (10 CFR 475) to address unique EV safety hazards. EVs purchased by DOE under the program were required to comply with these regulations. The DOE safety regulations formed the basis for several questions that the ANPRM asked, as set forth below.

The ANPRM elicited widespread public interest; a total of 46 comments were received in response to it. A listing of the commenters in alphabetical order demonstrates the breadth of experience and viewpoints that the commenters represent. They were: Spencer E. Alder, Esq., American Tour de Sol, American Honda Motor Co., Amerigon, Battery Council International, Bay Area Rapid Transit District, Anthony R. Benedetto, Biodyne Research, Inc., BMW of North America, Chloride-RWE, Chrysler Corp., Connecticut Department of Motor Vehicles, Cushman, Electric Power Research Institute (EPRI), Electric Transportation Association (ETA), Electric Transportation Coalition, Electric Vehicles of America, Electric Vehicle Industry Association, Electro Automotive, Ford Motor Co., General Motors Corp., Idaho National Engineering Lab, Insurance Institute for Highway Safety, Inter City Testing & Consulting, International Auto Design, Kumn Industries, Mercedes-Benz of North America, Mitsubishi Motors Corp., Motor Vehicle Manufacturers Association (MVMA), Nissan Research & Development (two comments), Renaissance Cars, Inc., Rubber Manufacturer's Association, SAE/Ford, Solar Electric, Solar & Electric Racing Association, Subaru of America, Suzuki Motors, Toyota Motor Corp., TUV Rheinland of North America, Underwriters Laboratories, Inc., U.S. Department of Energy, U.S. Postal Service, Volkswagen of America, Inc., and WEC Oceanic Division.

1. New Standards to Address Safety Hazards Associated With Maintenance and Re-Charging

The questions for which the agency sought comment, and the responses, were:

(a) Should NHTSA consider rulemaking that would standardize cables, connectors, receptacles, transformers, and procedures involved in the re-charging of the traction or propulsion battery systems? If so, have standards for these devices and procedures been adopted by the U.S. Military, Society of Automotive Engineers (SAE), American National

Standard/Electronic Industries Association (ANSI), or any other organization that would adequately reduce the re-charging safety hazards and thus be suitable to serve as a basis for NHTSA rulemaking?

Commenters attested to the need for standardization of these components and procedures, but most believed that the task should be left to the private sector. The comparison was made with standardization of gasoline nozzles, the internal combustion engine equivalent to recharging, where governmental regulation had not been required. NHTSA concurs in these views, both as to the eventual need for standardization, and the appropriateness of industry organizations such as the SAE and EPRI to achieve it.

(b) Should a procedure be standardized through NHTSA rulemaking for disabling the main drive power circuitry during routine EV maintenance in order to minimize the danger of shock, explosion or fire being caused by carelessness or inexperience? If so, are there currently regulations in existence that effectively address this problem and thus would be suitable to serve as a basis for NHTSA rulemaking?

Most of the commenters agreed that there should be a device on an EV for disabling the power drive circuitry. However, as others noted, there are also dangers associated with the routine maintenance of vehicles with internal combustion engines for which NHTSA has not seen the need to regulate. The commenters also noted that different EV designs will require different procedures for performing routine maintenance, and that manufacturers can be expected to provide information in operator's manuals adequate to avoid safety hazards. Manufacturers can also be expected to place warning labels in areas of high shock potential. NHTSA concurs with these comments. Further, a standardized procedure might risk limiting technology and innovation. NHTSA has concluded that rulemaking at this time, in this area of concern, is not justified.

2. New Standards to Address Unique Crash Avoidance Safety Hazards

The questions for which the agency sought comment were:

(a) Should NHTSA consider a requirement for an audible signal that operates when an EV's transmission is in reverse? Such a signal would increase the likelihood that any pedestrian in the vicinity of a backing EV is aware of the vehicle's movements.

Pointing out that many vehicles with internal combustion engines are also quiet while backing, most of those who commented on the issue felt that no requirement was needed. There was a consensus that there ought not to be a safety problem when the operator is alert and has a clear view to the rear. Three commenters, however, believed that an audible alarm should be required when an EV is in reverse. NHTSA concurs with the majority that there is no apparent safety need to require an audible reverse alarm on EVs.

(b) Should NHTSA consider rulemaking that would require battery vents to have flame barrier provisions to inhibit battery explosions?

(c) Should NHTSA develop a regulation to require venting of the battery compartment in order to minimize the safety hazards that may result from an accumulation of explosive gases?

In the opinion of the commenters, those EVs with batteries that produce an explosive gas will have provisions for flame barriers and/or ventilation to prevent the accumulation of explosive gases. However, no vented compartments should be required for EVs equipped with batteries that do not produce explosive gases. NHTSA has concluded that there is no indication that EV manufacturers will not design their products to address this type of potential hazard, and, further, that rapidly advancing battery technology makes it difficult to promulgate a uniform safety regulation on flame barriers and battery compartment venting.

NHTSA will monitor the development of EV battery technology with respect to generation of explosive gases during charging and operation to ascertain if evolving designs incorporate adequate flame barrier protection and venting capabilities. NHTSA will act accordingly bases on that review.

(d) Should the agency consider developing a standard to require that EVs have a device that positively disconnects the battery and that is operable from the normal operator position?

Most commenters advised the agency not to initiate rulemaking in this area because the presence of a separate control could lead the public to conclude that it was a "panic button," and that EVs were not safe as conventionally powered vehicles with which they are familiar. The EVs known to NHTSA operate with a normal key ignition switch, and the agency believes that this provides sufficient means to disconnect the power source.

(e) Should lower bound limits be placed on the acceleration and velocity performance of EVs to ensure that they have some minimum capability of operating a traffic mix that includes conventional vehicles?

Commenters favored leaving resolution of this issue to the market place, saying that the past history of ICEVs indicated that those that manifested low acceleration and speed did not find favor with the consumer and were soon dropped. One commenter suggested having two classes of vehicles, an urban car to be used in city driving, and an all purpose one to be driven in other environments. Other comments suggested that speed limitations should be addressed to specific roadways and of general applicability. NHTSA concurs with the consensus of the majority of the commenters that regulation is not required in this area, and that market place forces should ensure a minimum level of safety performance.

(f) Since some EVs may have a single speed transmission which would allow the vehicles to operate at the same speed in reverse as they do in forward, should NHSA consider a regulation that places a limit on maximum reverse speed? If so, what should this speed be?

The commenters pointed out that this is another area where NHTSA has not found it necessary to regulate the performance of conventionally powered motor vehicles. Several, however, answered the question in the affirmative and suggested a range of 5 to 15 m.p.h. In NHTSA's view, the discretion of the driver ought to ensure a reverse speed consistent with safety. The agency will not initiate rulemaking in this area.

(g) For EVs with a single speed transmission (Standard No. 102 applies to multi-speed transmissions), should NHTSA consider a regulation to require these vehicles to have a braking effect at any speed less than 25 mph? If so, what should the deceleration rate be? Would the effects of regenerative braking, for vehicles so equipped, be enough to satisfy this requirement?

Commenters argued that EVs with single speed transmissions should not be required to have a braking effect, and that imposing such a requirement would be design restrictive. Mindful that its standards should be performance oriented and not design restrictive, NHTSA agrees with this comment, and believes that future transmissions may well be designed with the regenerative braking feature because of its ability to extend the range of the EV. A regulation in this area is not needed.

(h) Should the agency consider a regulation requiring EVs to have a warning device, located in the direct forward view of the driver, that operates

in the event of an electrical malfunction in the propulsion system?

The state of the art is such, according to commenters, that warning devices ought to be allowed to evolve. Different propulsion systems may require different warning devices to alert the driver of a possible malfunction. Further, most EV manufacturers now have unique warning devices that are intended specifically for their system.

NHTSA has concluded that there appears to be no single warning device appropriate to alert the driver of all the possible malfunctions that could occur, and that regulation is premature at this time.

NHTSA does believe, however, that all EV manufacturers will provide some type of battery charge indicator, and the agency is proposing that if a vehicle has a state-of-charge indicator, it would be identified by a standardized ISO symbol. Other devices to warn of the overheating of the battery or drive motor may be found to be needed as battery technology evolves. NHTSA will monitor the adequacy of malfunction warning devices and state-of-change indicators and act accordingly.

3. New Standards to Address Potentially Unique EV Crashworthiness Safety Hazards

The questions for which the agency sought comment were:

(a) Should NHTSA consider issuing a standard to require that the electric propulsion circuit be electrically isolated from the other conductive portions of the vehicle sufficiently to prevent injury due to a person's contacting any portion of the electric propulsion circuit while in contact with other portions of the vehicle?

NHTSA recognizes that there is a potential for harmful, if not fatal, injuries due to incorrectly isolated propulsion circuits. All commenters agree that the electrical propulsion circuit must be isolated from other conducting parts of the vehicle chassis to prevent the possible harmful effects of electrical shock, whether or not isolation is required by NHTSA. However, the method to achieve isolation is complex and would be design specific. NHTSA believes that EV manufacturers are probably wiring their propulsion systems to be electrically isolated from the vehicles chassis. At this point, regulation would be premature. However, future regulations may be required based on the results of research.

(b) Should NHTSA require that EVs be capable of complying with the requirements of Standard No. 208, Occupant Crash Protection, and Standard No. 301, Fuel System Integrity, without battery material intruding into the vehicle's occupant compartment?

Not all battery materials are hazardous, according to commenters, and there is no need to cover benign materials in a regulation on this subject. Some commenters thought that the word "intruding" would require a definition.

NHTSA believes that the battery compartment of an EV should be designed to ensure that its batteries remain secured during a crash, and do not become projectiles that could harm the EV's occupant's. There may be a safety need to prevent hazardous materials that are acidic, caustic, reactive, toxic, or hot from posing a threat to EV occupants in a crash. However, further research is needed before the agency embarks upon rulemaking.

(c) Should NHTSA consider rulemaking to require that all battery materials remain outside the occupant compartment but inside the vehicle during a barrier crash test at a speed less than 30 mph? If so, what crash test speeds should be considered?

Most commenters argued that there is no safety reason requiring battery materials to remain onboard during a barrier collision test at any speed, because there is no similar requirement for the batteries in conventionally powered vehicles. NHTSA agrees that there is no safety reason for such a standard.

(d) Should NHTSA consider requirements to limit the spillage and spillage rate of liquid electrolytes during a barrier collision with requirements similar to the fuel spillage and fuel spillage rates specified in Standard No. 301, Fuel System Integrity?

Most commenters agreed that if there is a safety hazard associated with the leakage material then perhaps a regulation would be necessary. Regulation would have to be material specific and the spillage rates specified in FMVSS 301 would not apply to hazardous battery materials. NHTSA believes that further research is needed in this area and that regulation is not appropriate at this time. Based on the results of the research, future regulation could be considered.

(e) Should NHTSA consider requirements to limit exposure to battery elements that operate at temperatures in excess of a specified value? If so, what should the compliance test for such a requirement be?

The consensus of the commenters was that no regulation is required. NHTSA agrees. High temperature batteries are self-contained and insulated, and present no danger with their extreme temperatures. The commenters pointed out that although conventional vehicles have components that operate at a relatively high temperature, NHTSA has not regulated them.

(f) Should NHTSA consider developing a standard to require EVs to have a device which automatically disconnects the propulsion battery circuitry in the event of a high energy crash?

Commenters believe in the necessity of a device to disconnect the propulsion circuit, such as circuit breakers. There is a further need, in their view, to define "high energy crash."

NHTSA considers a disconnect device vital so that when collisions occur, vehicle occupants, rescue workers, or other persons do not have a high risk of electrical shock resulting from the propulsion battery circuitry shorting with the vehicle chassis. Although most manufacturers of EVs are probably designing some sort of propulsion battery shut-off in the event that it loses isolation (i.e., shorts) with the vehicle chassis, NHTSA believes that research is needed to determine the best method to maintain isolation between the propulsion battery and the vehicle chassis before issuing a regulation. This is an area the agency is considering for future rulemaking.

For a fuller discussion of these issues and the views of the individual commenters, the reader is referred to the Summary of Comments on Docket No. 91–49; Notice 1. The Summary is available for inspection and copying in the agency's docket room referenced at the beginning of this notice.

Authority: 15 U.S.C. 1392, 1401, 1407; delegations of authority at 49 CFR 1.50, and 501.8.

Issued on: November 13, 1992.

Barry Felrice,

Associate Administrator for Rulemaking.

[FR Doc. 92–27945 Filed 11–17–92; 8:45 am]

BILLING CODE 4910–59–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 259

[Docket No. 921065–2265]

RIN 0648–AF22

Capital Construction Fund; Interim Fishing Vessel Capital Construction Fund Procedures

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

ACTION: Proposed rule.

SUMMARY: NMFS proposes to allow fishermen to use the Fishing Vessel Capital Construction Fund Program (Program) for equipping and/or modifying their fishing vessels to increase general vessel safety and/or to comply with specific requirements established under the Commercial Fishing Industry Vessel Safety Act of 1988. An equipment acquisition or vessel modification made for safety purposes would be treated as a reconstruction and exempted from certain Program rules so that payment for it would be a qualified Program withdrawal.

DATES: Written comments will be received through December 18, 1992.

ADDRESSES: Send written comments to Michael L. Grable, Chief, Financial Services Division, National Marine Fisheries Service, F/TS1, 1335 East-West Highway, Silver Spring, MD 20910.

FOR FURTHER INFORMATION CONTACT: Charles L. Cooper (Financial Services Division, NMFS), 301–713–2396. This is not a toll-free telephone number.

SUPPLEMENTARY INFORMATION: The Program allows fisheries taxpayers to defer paying Federal taxes on fishing vessel income. Income on which taxes are to be deferred must be deposited in accordance with Capital Construction Fund Agreements and reserved for the equity portion of fishing vessel construction, reconstruction, or acquisition costs. All deferred taxes are eventually recaptured by reductions in the depreciation basis, for tax purposes, of vessels benefitting from tax deferrals under the Program.

Under present Program rules (50 CFR part 259), fishermen cannot use the Program to pay for safety equipment unless that equipment is part of a vessel construction or reconstruction project. Although this is not generally a problem when fishing vessel construction is involved, it can be a problem when fishing vessel reconstruction is involved.

Generally, improving a fishing vessel will not qualify as reconstruction under this Program's rules unless the cost of doing so: (a) Is a capital expenditure; (b) amounts to at least $100,000 or 20 percent of the vessel's acquisition cost (whichever is less); and (c) substantially prolongs the vessel's useful life, increases its value, or adapts it to a different fisheries use. The purchase and installation of fishing vessel safety equipment would seldom meet this rules test. Many fishing vessel modifications for safety purposes would also fail to meet this test.

Additionally, the conditional fishery requirements apply to fishing vessel reconstruction under this Program. These requirements restrict the availability of Program benefits in fisheries where the Government deems additional or increased harvesting capacity unwarranted. These conditional fishery requirements could also, under the present Program rules, prevent use of this Program for safety projects.

This proposed rule would allow the acquisition and installation of fishing vessel safety equipment and fishing vessel modifications whose central purpose is to increase vessel safety to be treated, in their own right, as reconstructions for the purpose of withdrawing tax-deferred funds from Capital Construction Funds to pay for them. Except for the capital expenditure requirement, these fishing vessel safety projects would be exempt from the normal rules test that now determines whether fishing vessel improvements can qualify as reconstructions.

This proposed rule would also allow fishing vessel safety projects without regard to the conditional fishery requirements that would normally otherwise apply to reconstruction projects.

Expected Effect of Proposed Rule

If this proposed rule is adopted, the fishing industry would be able to use their Capital Construction Funds to pay for fishing vessel safety projects without regard to: (a) The cost of the safety project; (b) whether the fishing vessel involved in the safety project had its useful life extended, its value increased, or was converted to a different fisheries use; and (c) conditional fishery requirements.

Comments Invited

NMFS invites interested parties to participate in this proposed rulemaking by submitting any written views, data, arguments, or suggestions they believe may be helpful. Comments will not be individually answered. Comments will, however, be reviewed and considered, and may cause this proposed rule to be changed. Those desiring acknowledgment that their comments have been received should enclose a stamped, self-addressed postcard or envelope.

Classification

This action is categorically excluded, by NOAA Directive 02–10, from the requirement to prepare an environmental assessment.

The Assistant Administrator for Fisheries, NOAA, determined that this proposed rule is not a "major rule" requiring a regulatory impact analysis under E.O. 12291, because it will not result in an annual effect on the economy of $100 million or more; will not result in a major increase in costs or prices for consumers, individual industries, Federal, state, or local government agencies, or geographical regions; and will not result in a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The General Counsel of the Department of Commerce certified to the Small Business Administration that this proposed rule will not have a significant economic impact on a substantial number of small entities because it relates to financial assistance programs in which participation is voluntary and does not impose any cost, economic burden, or reporting burden on the industry. As a result, a regulatory flexibility analysis was not prepared.

This rule does not contain a collection-of-information requirement for purposes of the Paperwork Reduction Act.

This rule does not contain policies with federalism implications sufficient to warrant preparation of a federalism assessment under E.O. 12612.

This rule does not directly affect the coastal zone of any state with an approved coastal zone management program.

List of Subjects in 50 CFR Part 259

Fisheries, Fishing vessels, Income taxes, Reporting and recordkeeping requirements.

Dated: November 9, 1992.

Samuel W. McKeen,

Program Management Officer, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 259 is proposed to be amended as follows:

PART 259—CAPITAL CONSTRUCTION FUND

1. The authority citation for part 259 continues to read as follows:

Authority: 46 U.S.C. 1177.

2. Section 259.31 is amended by removing the authority in the parenthetical at the end of the section and by adding a new paragraph (e) to read as follows:

§ 259.31 Acquisition, construction, or reconstruction.

* * * * *

(e) *Safety projects.* The acquisition and installation of safety equipment for

a qualified vessel and vessel modifications whose central purpose is materially increasing the safety of a qualified vessel shall, regardless of cost, be treated as reconstruction for the purpose of qualifying a CCF withdrawal for such expenditure, shall be exempt from having to meet conditional fishery requirements for reconstruction as set forth in § 259.32, and shall be exempt from all qualifying tests for reconstruction set forth in paragraph (b) of this section, with the following exceptions:

(1) A safety improvements shall be required to meet both conditional fishery requirements and all qualifying tests for reconstruction if it serves the dual purpose of safety and meeting the reconstruction requirement of paragraph (a) of this section for qualifying a withdrawal for the acquisition of a used vessel;

(2) That portion of the actual cost of a safety improvement that is to be paid for from the CCF must be classifiable and treated as a capital expenditure for Internal Revenue Service purposes;

(3) Safety improvement projects whose clear and central purpose is restricted to complying with the requirements of the Commercial Fishing Vessel Safety Act of 1988 (46 U.S.C. 2101) shall, without further documentation, be considered to fall within this paragraph (e). Satisfactory documentation will be required for all other projects proposed to be considered as falling within this paragraph (e). Projects whose central purpose clearly involves something other than safety improvement will not be considered to fall within this paragraph (e).

[FR Doc. 92-27671 Filed 11-17-92; 8:45 am]

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Notices

Federal Register
Vol. 57, No. 223
Wednesday, November 18, 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

Forest Service

Exemption From Appeal, Morris Fire Salvage Timber Sale

AGENCY: Forest Service, USDA.

ACTION: Notice of Exemption From Appeal, Morris Fire Salvage Timber Sale, Eagle Lake Ranger District, Lassen National Forest.

SUMMARY: The Forest Service is exempting from appeal the decision to sell dead trees that were killed by the Mud Fire in August 1992. The objective of the Morris Fire Salvage Timber Sale is to reduce the fire risk, to salvage the maximum amount of mortality, and to regenerate the burn. Trees ranging from singed to charred within the Mud Fire currently provide fuel for a catastrophic fire affecting adjacent live tree stands as well as the soil productivity of the site itself. Approximately 1.7 million board feet (MMBF) of sawlogs will be harvested on 385 acres through this proposal. Extensive salvage will be harvested on 297 acres with a timber prescription and roadside hazard trees will be harvested on 88 acres with a rocky/sparse prescription. Feller-bunchers and the existing road system will be used to salvage standing sawtimber and biomass. Timber prescription acreage will be regenerated with ponderosa pine. Rocky/sparse acreage will be augmented with brush and incidental planting of ponderosa pine for the benefit of wildlife species. The project is located on the Eagle Lake Ranger District, Lassen National Forest 34 miles northwest of the community of Susanville, California.

The management direction for this proposal uses forest standards and guidelines and management prescriptions found in the final Lassen National Forest Land and Resource Management Plan. These standards and guidelines and management prescriptions will be adhered to so as not to forgo future management options. No threatened, endangered, or sensitive wildlife species have been observed in or near the proposed sale area. No threatened, endangered or sensitive plants are known to be located in the proposed sale area. No roadless or former roadless areas exist in the analysis area. No system road construction or reconstruction is planned for this timber sale. The environmental analysis for this proposal has been documented in the Morris Fire Salvage Timber Sale Environmental Assessment. It documents that salvage harvesting can be conducted while protecting other resource values such as wildlife habitat, soil productivity, watershed values, fisheries, and archaeology. Public participation in the analysis was solicited through scoping letters sent to landowners, grazing permittees, timber purchasers, public agencies, and special interest groups in September 1992. No comments were received during the 15 day public comment period. The project files and related maps are available for public review at the Eagle Lake Ranger District, Susanville, California.

The District Ranger has determined through the environmental analysis that there is good cause to expedite this project due to the fire risk and value of the standing timber. It is extremely important to remove the dead timber prior to further deterioration and subsequent value loss which would make the sale economically infeasible. Presently the estimated value of the stumpage, primarily ponderosa pine, is $35,000.00, the base rates established for the Lassen National Forest. Through this timber sale, fuels treatment can be accomplished through timber harvest, and regeneration and revegetation of the burn can be achieved through Knutsen-Vandenburg (K–V) funds. Removal of dead timber and reforestation would be accomplished through appropriated Reforestation and Investment (R&I) funds or foregone otherwise. It is important to harvest the dead timber when there is the potential to receive the highest return to the government to maximize the collection of K–V funds to restore forest values affected by the Mud Fire. Delaying or not harvesting this timber would affect Forest Receipts available for K–V as well as employment opportunities generated from harvest, manufacturing, and sale of timber and chips in Lassen and Shasta Counties. It would also increase the chances of wildfire due to the large quantity of standing and down fuels.

The decision for the analysis area is scheduled to be issued in November 1992. If the project is delayed because of appeals (delays can be up to 100 days, with an additional 15–20 days for discretionary review by the Chief of the Forest Service), it is likely that the project could not be implemented this operating season or during the winter operating period. This would result in a loss of value of the timber due to deterioration. This loss of timber value would create the potential that the sale would not sell and that forest products would not be manufactured. In addition, the fire hazard would not be reduced and the area would not be revegetated if the dead timber is not removed.

Pursuant to 36 CFR 217.4(a)(11), it is my decision to exempt from appeals the decisions relating to the timber harvest and restoration of the lands affected by the Mud Fire in the Morris Fire Salvage Timber Sale analysis area on the Eagle Lake Ranger District, Lassen National Forest. The environmental document addresses the effects of the proposed actions on the environment and documents public involvement.

EFFECTIVE DATE: This decision will be effective November 18, 1992.

FOR FURTHER INFORMATION CONTACT: Questions about this decision should be addressed to Ed Whitmore, Timber Management Staff Director, Pacific Southwest Region, Forest Service, USDA, 630 Sansome Street, San Francisco, CA 94111 at (415) 705–2648, or to Leonard Atencio, Forest Supervisor, Lassen National Forest, 55 South Sacramento Street, Susanville, CA 96130 at (916) 257–2151.

ADDITIONAL INFORMATION: The Cooperative Forestry Assistance Act of 1978 authorizes the Secretary of Agriculture to enhance the growth and maintenance of forests, promote the stability of forest-related industries and employment associated therewith, aid in forest fire prevention and control, conserve the forest cover on watersheds, and protect recreational opportunities and other forest resources.

Dated: November 10, 1992.

Joyce T. Muraoka,

Deputy Regional Forester.

[FR Doc. 92-27891 Filed 11-17-92; 8:45 am]

BILLING CODE 3410-11-M

DEPARTMENT OF AGRICULTURE

Forest Service

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Emergency Closure, Federal Subsistence Hunting Season

AGENCY: Forest Service, USDA, Fish and Wildlife Service, Interior.

ACTION: Notice.

SUMMARY: By emergency order the Federal Subsistence Board closed the Federal subsistence hunting season for Mentasta caribou on Federal public lands in Game Management Units (GMU) 11 and 12. Title VIII of the Alaska National Interest Lands Conservation Act requires the Secretary of the Interior and the Secretary of Agriculture to assure the continued viability of fish and wildlife populations in the implementation of Title VIII mandates. Data and projections indicate that there are not enough caribou in the Mentasta herd to allow a harvest while assuring the continued viability of the Mentasta caribou population.

EFFECTIVE DATE: August 10, 1992.

FOR FURTHER INFORMATION CONTACT: U.S. Fish and Wildlife Service, Subsistence Office, 1011 E. Tudor Rd., Anchorage, Alaska 99503; telephone (907) 271-2326. Wrangell-St. Elias National Park and Preserve, P.O. Box 29, Glennallen, Alaska 99588-0029; telephone (907) 822-5234.

SUPPLEMENTARY INFORMATION: As empowered by 50 CFR 100.19(c), and 36 CFR 242.19(c), Subsistence Management Regulations for Public Lands in Alaska, the Federal Subsistence Board, by emergency order, has closed the Federal subsistence hunting season for Mentasta caribou in Game Management Units 11 and 12. Surveys conducted by the National Park Service and the Alaska Department of Fish and Game indicate that the population decline of the last seven years continued in 1991-1992. The surveys indicate that for the second year in a row Mentasta caribou herd reproductive rates are below the levels necessary to compensate for natural mortality The Board found that a harvest would threaten the continued viability of the Mentasta caribou herd.

Curtis V. McVee,

Chair, Federal Subsistence Board.

Robert W. Williams,

Deputy Regional Forester, USDA-Forest Service.

[FR Doc. 92-28003 Filed 11-17-92; 8:45 am]

BILLING CODE 4310-55-M

DEPARTMENT OF COMMERCE

Agency Form Under Review by the Office of Management and Budget

DOC has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Agency: Bureau of the Census.

Title: U.S Census – Age Search.

Form Number(s): BC-600, BC-649(L), BC-658(L).

Agency Approval Number: 0607-0117.

Type of Request: Revision of a currently approved collection.

Burden: 2,309 hours.

Number of Respondents: 8,664.

Avg Hours Per Response: 10 minutes.

Needs and Uses: The Geography Branch/Personal Census Search Unit in Jeffersonville, Indiana, maintains the 1910-1990 Federal censuses for searching purposes. The purpose of searching is to furnish, upon request, transcripts of personal data from historical population census records. Information relating to age, place of birth, and citizenship is furnished upon payment of the established fee to individuals for their use in qualifying for Social Security, old age benefits, retirement, court litigation, passports, insurance settlements, etc. This request formalizes revisions to the layout and instructions for completing application forms, removes the 1900 Census from census years searched, adds the 1990 Census for search, raises the fee for the search from $25.00 to $40.00, raises the fee for a full schedule transcript from $6.00 To $10.00, and reduces the number of censuses searched per fee from two to one.

Affected Public: Individuals or households.

Frequency: Upon request.

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

OMB Desk Officer: Maria Gonzalez, (202) 395-7313.

Copies of the above information collection proposal can be obtained by calling or writing Edward Michals, DOC Forms Clearance Officer, (202) 482-3271, Department of Commerce, room 5312, 14th and Constitution Avenue, NW, Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent to Maria Gonzalez, OMB Desk Officer, room 3208, New Executive Office Building, Washington, DC 20503.

Dated: November 12, 1992.

Edward Michals,

Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 92-27999 Filed 11-17-92; 8:45 am]

BILLING CODE 3510-07-F

Foreign-Trade Zones Board

[Docket 15-91]

Foreign-Trade Zone 40—Cleveland, OH; Withdrawal of Application for Subzone Status for Joseph & Feiss Company Apparel Plant

Notice is hereby given of the withdrawal of the application submitted by the Cleveland-Cuyahoga County Port Authority, grantee of FTZ 40, requesting authority for subzone status for the men's tailored apparel manufacturing facility of the Joseph & Feiss Company in Cleveland, Ohio. The application was filed on March 19, 1991 (56 FR 13798, 4/4/91).

The withdrawal is requested by the applicant because of changed circumstances, and the case has been closed without prejudice.

Dated: November 12, 1992.

Dennis Puccinelli,

Acting Executive Secretary.

[FR Doc. 92-27997 Filed 11-17-92; 8:45 am]

BILLING CODE 3510-DS-M

International Trade Administration

[A-533-502]

Certain Welded Carbon Steel Standard Pipes and Tubes From India; Final Results of Antidumping Duty Administrative Review

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

ACTION: Notice of final results of antidumping duty administrative review.

SUMMARY: On March 9, 1992, the Department of Commerce published in the **Federal Register** the preliminary results of an administrative review of the antidumping duty order on certain welded carbon steel standard pipes and tubes from India. This review covers one exporter for the period May 1, 1990

through April 30, 1991. We preliminarily found that dumping margins exist with respect to this exporter.

We gave interested parties an opportunity to comment on the preliminary results. We received comments from the petitioner and the respondent. Based on our analysis of comments received, the dumping margins have changed from the preliminary results.

EFFECTIVE DATE: November 18, 1992.

FOR FURTHER INFORMATION CONTACT: James Rice or Wendy Frankel, Office of Agreements Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230, telephone (202) 482–3793.

SUPPLEMENTARY INFORMATION:

Background

On March 9, 1992, the Department of Commerce (the Department) published in the **Federal Register** the preliminary results of an administrative review of the antidumping duty order (51 FR 17384) on certain welded carbon steel standard pipes and tubes from India for the period May 1, 1990 through April 30, 1991 (57 FR 8301). The Department has now completed this review in accordance with section 751 of the Tariff Act of 1930, as amended (the Act).

Scope of the Review

Imports covered by this review are shipments of welded carbon steel pipes and tubes with an outside diameter of 0.375 inch or more but not over 16 inches. These products are commonly referred to in the industry as "standard pipe" and are produced to various American Society for Testing Materials (ASTM) specifications, most notably A–53, A–120, or A–135. This merchandise is currently classifiable under item numbers 7306.30.1000, 7306.30.5025, 7306.30.5032, 7306.30.5040, 7306.30.5055, 7306.30.5085, and 7306.30.5090 of the Harmonized Tariff Schedule (HTS). The HTS numbers are provided for convenience and customs purposes. The written product description remains dispositive.

This review covers shipments made by the Tata Iron and Steel Co. Ltd. (TISCO) during the period May 1, 1990 through April 30, 1991.

Analysis of Comments Received

We gave interested parties an opportunity to comment on the preliminary results of this review. We received timely written comments from the petitioner, the Standard Pipe Subcommittee of the Committee on Pipe and Tube Imports and its individual members, and TISCO. In addition, on April 22, 1992, a hearing was held at which interested parties presented their views orally.

Comment 1: TISCO argues that the Department is obligated to examine and review each issue in this administrative review *de novo*. Although many of the issues raised in this review are similar to those examined in the preceding two reviews, TISCO states that the Department is not precluded from reaching conclusions in this review that differ from those reached in the 1987–88 and 1988–89 reviews. TISCO requests that the Department re-examine its previous conclusions.

Department's Position: The Department agrees with respondent. The results of this administrative review have been determined based on the information existing on the record of this particular review, after considering the comments of interested parties.

Comment 2: In the preliminary results, the Department excluded from its price-to-price comparisons home market sales of pipe and tube meeting ASTM A–120 specifications (ASTM pipe) on grounds that these sales were not in the ordinary course of trade. The Department based foreign market value (FMV) on home market sales of pipe produced to Indian Standard IS–1239 specifications (IS pipe).

TISCO takes issue with the Department's exclusion of home market sales of ASTM pipe. TISCO argues that in accordance with section 771(16) of the Act, the Department should calculate the antidumping margin based upon sales of identical merchandise rather than similar merchandise, if a comparison of identical merchandise can be satisfactorily made, and that TISCO's home market sales of ASTM material provide an adequate basis for determining FMV. Citing Cyanuric Acid and its Chlorinated Derivative From Japan Used in Swimming Pool Trade (49 FR 7424; Feb. 29, 1984), Portable Electric Typewriters From Japan (56 FR 14072; April 5, 1991), Television Receivers, Monochrome and Color, From Japan, (56 FR 24371; May 30, 1991), and Silicon Metal From Brazil (56 FR 26977; June 12, 1991), TISCO claims the Department has used very small quantities of home market sales as the basis for FMV in the past.

TISCO also contends that the Department's use of the ordinary course of trade exception is improper. TISCO maintains that use of this exception has, in the past, been limited almost exclusively to cases involving sample or trail sales, spot sales, sales of damaged merchandise, sales of small quantities, and sales of obsolete or discontinued models. According to TISCO, even then it is rare for the Department to exclude sales of identical products as not being in the ordinary course of trade. TISCO states that the exclusion of identical home market sales is wrong and that the typical uses of ASTM pipe in India do not disqualify home market ASTM sales as a basis for FMV.

In Certain Welded Carbon Steel Standard Pipes and Tubes From India (56 FR 64753 (1991)) (Indian Pipe and Tube), the Department determined that because ASTM pipe does not conform to Indian specifications, the domestic market for this pipe must be marginal. TISCO contends that this reasoning does not consider the wide range of applications for ASTM material in India. ASTM pipe sold in India is generally used for non-conveyance (i.e., structural) applications. TISCO notes that in the two previous reviews, the Department considered it unlikely that ASTM pipe was used in structural applications because much of it was threaded and coupled.

TISCO also contests the Department's finding in the final results of the previous reviews that TISCO's home market sales of ASTM pipe were not in the ordinary course of trade because the level of profit realized on those sales was lower than that realized in IS–1239 sales. TISCO contends that there is nothing in the law which defines a maximum, minimum, or even reasonable profit level when sales are assumed to be made above the cost of production. TISCO points out that in Sheet Piling from Canada (56 FR 8565; April 23, 1991), the Department determined that even when home market prices varied for certain products with equal production costs, the Department was obligated to make identical product comparisons wherever possible.

Petitioner agrees with the Department that TISCO's home market sales of ASTM material were not made in the ordinary course of trade. As support, petitioner cites Industrial Nitrocellulose from the Federal Republic of Germany (55 FR 21058; May 22, 1990) (INC), in which the respondent argued that home market sales were made in the ordinary course of trade, pointing out that the sales were of a product identical to that sold in the U.S. The Department disagreed with respondent, stating that:

> Although the sales and distribution channels are identical to home market sales and the transaction quantities are similar to other home market sales, the circumstances of these sales are not ordinary. Wolff (respondent) did not sell the customer what it originally wanted and instead offered a

substitute product, not normally sold on the home market, at a price it charges for the product originally ordered. The price to the customers reflected, in part, these conditions rather than simply the product costs and normal market forces that would have otherwise determined price.

According to petitioner, the evidence in this review is even more compelling. Unlike the respondent in *INC*, petitioner argues that TISCO is selling the costlier ASTM product at a lower price than the IS product which has a lower cost of manufacture.

Department's Position: Section 773(a)(1)(A) of the Act and section 353.46(a) of the Department's regulations provide that FMV shall be based on the price at which such or similar merchandise is sold in the exporting country in the ordinary course of trade for home consumption. Section 771(15) of the Act defines "ordinary course of trade" as "the conditions and practices which, for a reasonable time prior to the exportation of the merchandise which is the subject of an investigation, have been normal in the trade under consideration with respect to merchandise of the same class or kind" (See also 19 CFR 353.46(b)). As we stated in the preliminary results of this review, it was determined during the previous two reviews that TISCO's home market sales of ASTM material were "not in the ordinary course of trade for home market consumption within the meaning of section 773(a)(1)(A) of the Act." No conclusive evidence was presented during the present review or at verification to cause the Department to alter its position on this issue. Moreover, we remain unpersuaded by the arguments of respondent.

The Department, in determining whether home market sales are in the ordinary course of trade, does not rely on one factor taken in isolation but rather considers all the circumstances particular to the sales in question. In again reviewing the evidence for this review, we relied upon a number of factors, including (a) the different standards and product uses of ASTM and IS pipe; (b) the comparative volume of sales and number of buyers of ASTM and IS pipe in the home market; (c) the price and profit differentials between ASTM and IS pipe sold in the home market; and (d) whether the ASTM pipe manufactured by TISCO was primarily destined for domestic or foreign markets. In considering these factors as a whole, we found that sales of ASTM pipe were not normal in terms of the domestic market for standard pipe in India. The relevance of each of these factors is examined in greater detail below.

We first considered the differences in standards and product uses between ASTM and IS pipe, and concluded that the physical differences between both types of pipe have a direct bearing on their ultimate use. The use of ASTM pipe in the Indian domestic market is drastically limited because this pipe is measured in inches and fractions thereof, while India has adopted the metric system as its official standard of weights and measures. As a consequence, ASTM pipe does not conform with Indian building codes or government specifications, which reduces its utility in the Indian domestic market. TISCO, at verification, provided information supporting its position that its Indian customers of threaded and coupled ASTM material used it for structural applications because of its ease of use, despite the fact than ASTM material does not meet Indian building codes. In fact, TISCO stated on the record of the 1987–88 and 1988–89 administrative reviews that its ASTM pipe customers in India used the pipe for a very limited number of purposes quite different from its intended standard purposes. These documents have been placed on the record of the present review, and respondent has not contradicted or altered its previous statements. Based on these differences, the Department finds that any market for ASTM pipe in India can only be marginal.

We then compared the volume of ASTM and IS pipe sold in India and the number of buyers for each type of pipe, and found that the overwhelming majority of standard pipe sold in India is IS pipe, not ASTM pipe. Compared to IS pipe, ASTM pipe is sold in much smaller volumes and at a great discount. Very few of the many distributors of IS pipe in India sell ASTM pipe to the ultimate end users. While the number of sales or volume sold are not in and of themselves definitive factors in determining whether the sales in question are in the ordinary course of trade, this second factor coupled with the differences in physical characteristics and product uses of these two types of pipe supports the Department's position that ASTM pipe sales are not in the ordinary course of trade.

Although the Department has not imposed a requirement that sales be made at similar prices in order to be considered within the ordinary course of trade, there is a wide disparity in sale prices between ASTM and IS pipe in India. IS pipe is consistently sold at a much higher price that ASTM material even though IS pipe is the country standard. This price disparity is all the more striking considering that the production costs of ASTM and IS pipe are essentially equal. Taken in conjunction with the other two factors outlined above, this price differential further indicates that ASTM pipe sales in India are outside the ordinary course of trade.

At the verification of this review, TISCO provided proprietary production records to the Department which indicated that substantial quantities of ASTM pipe were produced. These documents also indicate that a percentage of this production was destined for export, indicating that home market ASTM sales consisted of the remaining percentage of production. Because these production records clearly indicate the percentage of any given production run that is to be exported, this documentation does not support respondent's position that ASTM material is sold in the normal course of trade within India. As the verification report of the original investigation noted (which is on the administrative record of this review), TISCO officials stated that these sales were "cost overruns." No evidence exists on the record to indicate that this fact has changed or that the Department's conclusion is incorrect.

Based on the foregoing factors considered in their totality, the Department reaffirms its decision that sales of ASTM pipe in the domestic Indian market were outside the ordinary course of trade. Therefore, we have continued to use sales of IS pipe to wholesalers and distributors as the basis for FMV in our price-to-price comparisons.

Comment 3: TISCO disagrees with the Department's decision in the preliminary results to deny TISCO's claim for an adjustment to FMV for differences in circumstances of sale (COS adjustment) to account for price rebates on steel inputs received by TISCO from the Indian Price Reimbursement Scheme (IPRS). TISCO contends that a COS adjustment should have been made to account for the IPRS because the rebates associated with this program are directly related to TISCO's export sales. TISCO adds that as recently as October 1990 the Department advocated making such a COS adjustment for the IPRS in Final Results of Sales of Administrative Review; Certain Iron Construction Castings from India (55 FR 49697; October 10, 1990). TISCO maintains that the Department's previous position was upheld by the Court of International Trade in *Sawhill Tubular Div., Cyclops*

Corp. v. *United States*, 666 F. Supp. 1550 (CIT 1987) (Sawhill). The Department's reversal of its position in the 1987–88 and 1988–89 reviews of standard pipe from India, therefore, has no merit because neither the underlying program nor TISCO's use of the program have changed.

TISCO argues that the distinction the Department made in the 1987–88 and 1988–89 reviews that the IPRS is "tied" to sales but not "directly related" does not apply in this instance (See, e.g., Sawhill). TISCO contends that this court decision supports its position that the IPRS payments received by TISCO can be directly tied to sales.

TISCO next argues that the Department's refusal to grant an adjustment for "a revenue received in connection with export sales" contravenes the purpose of the antidumping law. If the Department is concerned with a particular government practice such as the IPRS program, TISCO asserts, it should address that concern through the countervailing duty law. Even if these concerns regarding the IPRS's effect on international trade were relevant in this antidumping case, TISCO claims that the CIT's recent decision in *Creswell Trading Co.* v. *United States*, 783 F. Supp. 1418 (CIT 1992) (Creswell), undermines that position. Creswell held that the IPRS is permitted under item (d) in the Illustrative List of Export Subsidies incorporated into U.S. law by section 771(5)(A)(i) of the Act. According to TISCO, this means the IPRS program does not distort world trade in a way that affronts U.S. law, and so the adjustment should be granted.

TISCO further argues that the Department has mischaracterized its own practice with respect to COS adjustments. According to TISCO, as outlined in the final results of the two previous reviews, the Department has taken the position that COS adjustments are granted in only select and narrow circumstances, and this position is contrary to Department practice. Respondent cites numerous administrative reviews and court decisions supporting its contention that the Department's application of the COS adjustment is not nearly as rigidly limited as the Department implied (See, *e.g.*, Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From the Federal Republic of Germany (54 FR 18992; May 3, 1989)).

Petitioner agrees with the Department's determination to deny TISCO's claimed COS adjustment for the IPRS rebate program. Petitioner considers this decision to be consistent with Department policy, as announced in Light-Walled Rectangular Carbon Steel Tubing from Taiwan (56 FR 26383; June 7, 1991) and the previous two reviews of this case. Petitioner also states the Department was correct in determining that such a dual pricing system is not the functional equivalent of duty drawback, in view of the fact that such schemes are completely different in purpose, operation and effect from duty drawback programs.

Department's Position: We agree with petitioner, and have continued to disallow a COS adjustment for IPRS payments on steel production inputs in the final results of this administrative review.

We address, in turn, each of TISCO's primary reasons for taking issue with the Department's decision on IPRS. First, the Department's regulations provide that we will grant a COS adjustment only (1) "for a *bona fide* difference in the circumstances of the sales compared" which (2) "bear[s] a direct relationship to the sales compared" (19 CFR 353.56(a)(1)). The fact that IPRS payments were contingent upon exportation of the finished product is not a sufficient basis for the Department to make a COS adjustment. As stated in the regulations, such an adjustment can only be made for a *bona fide* difference in circumstances of sale. In Cyanuric Acid and its Chlorinated Derivatives From Japan Used in Swimming Pool Trade (49 FR 7424; Feb. 29, 1984), the Department listed several examples of circumstances of sale for which adjustments are allowable, adding that "[i]n each of these examples, the seller is conveying to the purchaser something of value in addition to the physical merchandise, such as credit, warranties, or technical assistance." This policy is in complete accordance with the examples listed in section 353.56(a)(2) of the Department's regulations. TISCO has not demonstrated that, by receiving IPRS payments, it is providing its customers with something of value other than the standard pipe subject to the sales transaction. The Department did not find that the price differential between sales of such or similar merchandise was "due in any way to greater direct selling expenses or to value in addition to the physical article itself being conveyed to purchasers in the higher-priced market" (Cyanuric Acid at 7427). Export rebates such as IPRS payments convey nothing to the purchaser in addition to the physical product.

Even if the IPRS were a *bona fide* circumstance of sale, the fact that the payment is contingent upon exportation does not make the payment directly related to sales (See 19 CFR 353.56(a) (1) and (2)). In *Negev Phosphates, Ltd.* v *United States*, 699 F. Supp. 938 (1988) (Negev), the CIT upheld the Department's finding in Final Determination of Sales at Less Than Fair Value; Industrial Phosphoric Acid from Israel (52 FR 25440; July 7, 1987) that payments received by an Israeli producer under an exchange rate insurance scheme (EIS) were not directly related to the sales under consideration, because EIS payments did not necessarily affect the price of the exported product. The CIT recognized the Department's distinction between payments which are directly related to a sale and those which are only tied to a sale, the latter category including those payments which are merely predicated upon the act of exportation. The CIT's reasoning applies in this case as well, because the effect of the IPRS program is the same as that of the EIS in that the producer receives price advantages from a third party on U.S. sales that it does not receive on comparable home-market sales. By changing our treatment of IPRS payments from the original investigation, the Department's policy is now consistent with Industrial Phosphoric Acid and Negev.

Second, the precedent cited by TISCO as the more appropriate case reference is not directly applicable in this case. Sawhill simply ruled that it was within the ITA's discretionary authority to make a COS adjustment for the IPRS, but not that it was the only reasonable determination that could be made. As the Department discussed in the preliminary and final results for the previous two reviews, the Department has repeatedly explained that it was reexamining its policy on dual-pricing schemes such as the IPRS (See, e.g., Final Results of Antidumping Duty Administrative Review; Light-Walled Welded Rectangular Carbon Steel Tubing from Taiwan, (56 FR 5388) (1991); Indian Pipe and Tube, supra (56 FR 64757)). TISCO has therefore been placed on sufficient notice regarding the Department's position, and the Department hereby incorporates its previous explanation of this issue in other cases.

Third, we agree with TISCO that COS adjustments are based on differences in selling costs (See 19 CFR 353.56(a)(2)). Contrary to TISCO's assertion, however, Spun Acrylic Yarn from Italy (50 FR 35849; Sept. 5, 1985) (Yarns) fully supports the Department's position that TISCO's crediting of IPRS payments as sales income on its balance sheets does not justify a COS adjustment. The Department finds that the IPRS

payments actually reflect payments received based on production costs (See, Indian Pipe and Tube, 56 FR at 64758). TISCO holds that the Department must take into consideration the revenue received through the IPRS when determining FMV because TISCO considers it when setting its market prices. The Department disagrees because COS adjustments should not be made for differences in production costs. In *Yarns* the Department noted that "adjustments for circumstances of sale are, by definition, limited to consideration of a seller's marketing practices and are unaffected by conditions affecting production." In the instant case, IPRS payments have nothing whatsoever to do with TISCO's marketing practices and are very much influenced by conditions affecting production, most importantly the price of raw material inputs.

Fourth, TISCO mischaracterizes both the Department's reasoning with respect to the IPRS's effect on international trade and the CIT's holding in Creswell. TISCO complains that "it is apparent that the Department's change in position stems from an overall disapproval of the IPRS rebate program," and "the Department is not justified in denying the adjustment based on the policy reasons stated in the previous administrative reviews." These statements are equally inaccurate. In fact, as petitioner correctly notes, TISCO's assertions in this respect relate largely to the Department's previous refusal to recognize the IPRS as being the equivalent of a duty drawback scheme, a refusal the Department stands by here (See Indian Pipe and Tube, 56 FR at 64758). In rejecting TISCO's argument, the Department explained:

> The IPRS is equivalent to duty drawback only from the point of view of the input purchaser (in this case, TISCO), who under either program may buy inputs at prices comparable to world market prices. But whereas duty drawback, by nullifying the effect of restrictive import duties on input products, both encourages imports that might otherwise not have occurred and promotes exports, thereby benefiting international trade in two different directions, a dual input pricing program such as the IPRS mitigates the effects of import barriers on industries that would otherwise incorporate foreign-sourced inputs into products destined for export in competitive markets and discourages the importation of lower-priced inputs.

Id. Thus, the Department has simply determined that benefits received under the IPRS program do not warrant a COS adjustment. Contrary to TISCO's representations, this determination does not pass judgement on the merits of the IPRS program, or lack thereof.

Furthermore, Creswell holds only that, in keeping with the United States' obligation under GATT, Commerce may only countervail the provision of input materials to a producer by a foreign government if the terms of the provision are more favorable than those commercially available on world markets (Creswell, 783 F. Supp. at 1420). Following the remand, based on plaintiffs' failure to establish a world market price for the input, the CIT upheld Commerce's determination that the IPRS program is indeed countervailable and thus represents an unfair competitive advantage bestowed upon exporters (*Creswell Trading Co.* v. *United States*, Slip Op. 92–147 (CIT August 28, 1992) (Creswell II)).

For all of the foregoing reasons, as the Department has fully explained in previous reviews, the Department was justified in changing its policy on this issue and applying its revised policy during the present review. Moreover, as also explained above, while the Department's position may not be the only interpretation of the statute, it is a reasonable policy choice based upon substantial evidence in the record. As the Court of Appeals for the Federal Circuit has recently explained in a similar situation, a court's " 'duty is not to weigh the wisdom of, or to resolve any struggle between, competing views of the public interest, but rather to respect legitimate policy choices made by the agency in interpreting and applying the statute' " (*Suramerica de Aleaciones Laminadas, C.A.* v. *United States*, 966 F.2d 660, 665 (Fed. Cir. 1992), quoted in Creswell II, Slip Op. 92–147 at 6). Therefore, the Department has not made a COS adjustment for IPRS payments received by TISCO during this review period.

Comment 4: TISCO contends that if the Department compares U.S. sales of ASTM material to home market sales of IS–1239 material, it must make a COS adjustment to account for the trademark premium realized by TISCO on sales in the home market. TISCO contends that the Department's policy justifications for disallowing this adjustment are unwarranted, that the factual concerns expressed by the Department in the last review have been met in this review, and that even if the Department is unwilling to make a trademark adjustment, it is obligated to render a final determination that is not based on adverse presumptions that unfairly penalize TISCO.

TISCO argues that the Department may not deny this adjustment simply because it is a value-based adjustment. In the final results of the two previous reviews, the Department stated that it was "very disinclined" to make value-based adjustments due to the difficulty in establishing these adjustments. Yet the Department included TISCO's trademarked sales in its sales at less than fair value (LTFV) comparisons, notwithstanding TISCO's trademark premium. While TISCO acknowledges that the trademark adjustment is more complicated than most other adjustments, TISCO argues that the Department is penalizing TISCO because the Department was unwilling to constructively address this adjustment for policy reasons. TISCO also contends that the Department's regulations clearly state that value-based COS adjustments are appropriate in certain circumstances. TISCO further notes that in the Omnibus Trade and Competitiveness Act of 1988, Congress did nothing to absolve the Department from its obligation to make value-based COS adjustments where appropriate.

TISCO also argues that the Department's reliance on earlier investigations and reviews which involved trademark adjustments, cited by the Department in the 1987–88 and 1988–89 reviews, is misplaced. In those reviews, the Department relied on Final Determination of Sales at Less Than Fair Value; Lightweight Polyester Filament Fabric from Japan (49 FR 472; January 4, 1984) (Filament), in which the Department stated:

> There is sufficient evidence of a significant effect of the trademark so as to distort the reliability of and make arbitrary any comparisons of this merchandise which ignores this fact.

For this reason, the Department concluded that it would be improper to include the trademarked sales in its LTFV comparisons. According to TISCO, the importance of the Filament decision lies in the Department's recognition of the distortions that would result if the Department overlooked the effect of the trademark adjustment on a firm's pricing. The Department also relied upon Final Determination of Sales at Less Than Fair Value; Color Television Receivers from Korea (49 FR 7620, 7627; March 1, 1984) (Korean Receivers), in which the Department based its refusal of a trademark adjustment upon respondent's inability to demonstrate how it took the trademark premium into account in setting its prices and how it quantified its trademark premium at the time it set its prices in the home market. By contrast, TISCO contends that it has met both these requirements in this administrative review.

TISCO also contends that the Department should accept TISCO's trademark quantification methodology. In the final results of the previous reviews, the Department stated that TISCO had neglected to follow any "valuation methodologies generally accepted in corporate, tax, and estate law" to determine the value of its trademark premium. TISCO contends that this does not justify the Department's denial of the adjustment. TISCO contends that it has addressed the impracticality of using "generally accepted" valuation methodologies in the context of an administrative review. As TISCO has pointed out elsewhere on the record, generally accepted methods of valuing a company's trademark are based upon a comparison of a company's rate of return on its assets with a "standard" rate of return. TISCO contends that its valuation methodology is consistent with the principles underlying the previously noted "generally accepted" methodologies. TISCO also contends that its valuation methodology is preferable for purposes of calculating a product-specific (rather than a company-specific) trademark adjustment. TISCO instructed Price Waterhouse to calculate its trademark premium on the basis of generally accepted valuation methodologies, but Price Waterhouse concluded that this could not be done unless it was given access to the corporate and financial information of the other Indian pipe manufacturers.

TISCO argues that its price comparison methodology is based on information that is far more accessible than the information required to calculate a benchmark rate of return which the Department asserted was appropriate. Unlike the corporate and financial information of other Indian pipe producers, price information is readily available. As a result, TISCO contends that its valuation methodology should be considered acceptable.

Petitioner contends that the Department correctly denied TISCO's claimed trademark adjustment on policy grounds. Petitioner cites the Department's 1985 Study of Antidumping Adjustments Methodology and Recommendations for Statutory Change (at 9–10) to state that the Department has generally found it impractical if not impossible to make adjustments on anything but a cost basis. Petitioner continues by stating that the Department has consistently declined to make value-based adjustments because of the difficulty of objectively establishing the existence and exact amounts of such adjustments, as opposed to cost-based adjustments. Petitioner also cites Filament and Korean Receivers, claiming that in these cases the Department considered and rejected claims for trademark adjustments under circumstances similar to this case.

Petitioner does recognize that the Department has left open the possibility that under certain circumstances a trademark adjustment could be warranted, but that the methodology used to quantify the adjustment would have to be based upon a generally accepted method of trademark valuation and there would have to be ample, verifiable data establishing the size of the requested adjustment under such a methodology. Petitioner contends that although such standard methodologies exist that take into account both tangible and intangible valuation factors, TISCO has ignored these methodologies in favor of a study conducted by Price Waterhouse. Unfortunately, according to petitioner, the Price Waterhouse study makes no effort to show that TISCO took into account the value of the trademark when determining its selling prices. Nor did TISCO even attempt to demonstrate how it carries the trademark value in its financial records as an intangible asset.

Petitioner also argues that in ignoring the accepted trademark valuation methodologies, TISCO created its own valuation technique. According to petitioner, this alternative methodology is merely a dressed-up version of the dealer interview methodology used by TISCO, and properly rejected, in the last review. Petitioner argues that TISCO's methodology relies upon an unproven and unprovable proposition, that the value of TISCO's trademark is equal to the difference between the price of its pipe and its analysis of the pipe prices of its competitors. In addition, petitioner points out that the price data was not collected on prices of sales by TISCO and its competitors to dealers of IS pipe, which are the very prices upon which the Department bases its antidumping margins, but instead on the distributor's sale price to end users. Without TISCO's actual sales prices, it is impossible to prove TISCO's claim.

Petitioner also notes that Price Waterhouse based its pricing analysis on simple averages rather than weighted averages. Even without the other problems cited, by giving low volume/high price differential sales the same impact as high volume/low price differential sales, petitioner believes this fact alone renders the information useless for quantifying the effect of the trademark. In the end, petitioner contends that TISCO has not demonstrated its entitlement to the adjustment it seeks. Petitioner holds that a better way of quantifying any trademark adjustment would be to calculate the difference in the prices of TISCO's ASTM pipe sold in the home market before and after the introduction of trademarking. Petitioner notes that TISCO submitted both a pre-trademarking home market ASTM price list dated May 16, 1988 and a post-trademarking home market price list dated October 25, 1990. The prices for identical pipe types averaged only slightly higher on the 1990 price list. Petitioner contends that this difference would be the maximum possible trademark value, which is far less than the adjustment claimed by TISCO, and even this difference could be explained by increased costs for labor and raw materials.

Department's Position: We agree with petitioner, and have not made a COS adjustment to FMV for TISCO's claimed trademark premium. Respondent has failed to provide the Department with information, based on generally accepted trademark valuation techniques, which would indicate what portion, if any, of the home-market price is due to the alleged trademark premium.

Because of the difficulty of objectively establishing the existence and exact amount of value-based, as opposed to cost-based, adjustments, the Department generally does not make such adjustments (See Indian Pipe and Tube, 56 FR at 64759; Korean Receivers, 49 FR at 7625–27; and Filament, 49 FR at 479–80). Even if the Department were to make such an adjustment, the methodology used to quantify the adjustment would have to be based upon a generally accepted method of valuation and there would have to be ample, verifiable data establishing the size of the requested adjustment under that methodology. Such data does not exist on the record of this administrative review.

Respondent has provided citations which discuss various accounting methods for calculating the trademark premiums associated with a product. TISCO, however, has not followed any of the valuation methodologies generally accepted in corporate, tax, and estate law to determine the value of its alleged trademark premium. Instead, TISCO relied upon a fragmentary, incomplete study conducted by Price Waterhouse which surveyed selected distributors of TISCO and other manufacturers' products to gauge the price differentials between the distributor prices of TISCO

and non-TISCO material. However, the price information relevant to this review is the price at which TISCO and other producers sell their products to their distributors, not the price at which these distributors sell to the end-user.

Even if TISCO had followed generally accepted trademark valuation procedures, the Department still does not agree, to paraphrase its reasoning in the previous reviews, that price differentials are reliable as a benchmark for purposes of determining the value of a trademark, because any number of factors could explain why one manufacturer's prices for standard pipe are different from those of another manufacturer. The absence of an objective, reliable benchmark for the effect of the trademark upon the value of the merchandise precludes us from making the requested adjustment.

In sum, TISCO has provided information showing that the prices its distributors charge for pipe and tube are higher than the prices charged by those same distributors for its competitors' comparable products. There are any number of factors that affect the price charged for a product, such as the relationship between buyer and seller, service, location, *etc.* TISCO has not provided evidence nor has it proved what portion of the differential between its home-market prices and its competitors' prices is attributable to the trademark premium, let alone quantified any such premium precisely. Section 353.56(a)(1) of the Department's Regulations states that the Department will make a COS adjustment if it "is satisfied that the amount of any price differential [between United States price and FMV] is wholly or partially due to such differences" (19 CFR 353.56(a)(1)). In TISCO's case, the regulatory requirement has not been met.

Comment 5: TISCO contends that its methodology of quantifying its claimed trademark adjustment based upon an examination of sales of IS–1239 pipe which it and its competitors sold under identical selling circumstances is valid. TISCO contends the only difference in selling circumstances is price.

Petitioner argues that the Price Waterhouse study does not exclude other market conditions that could and most likely do influence prices, and that any price differential between TISCO and its competitors can be explained at least in part by factors unrelated to the value of the trademark, such as particular distributor-customer relationships, variable market conditions, and the distributors' profit expectations. For example, if TISCO had a majority share of any given market because its competitors lacked sufficient capacity, affordable transport options or established customer relationships, or faced other barriers to entry into the market, then TISCO would be more likely to have the market power to charge much higher prices than its competitors regardless of what customers thought of its trademark. Petitioner also notes that only 20 of TISCO's hundreds of distributors, in a small fraction of its markets, were participants in Price Waterhouse's study.

Department's Position: The Department conducted a verification of TISCO's questionnaire response and is satisfied that the data presented by TISCO reflects the actual price differentials of identical products sold by various distributors. This price information, however, was not accompanied by supporting documentation in the questionnaire responses which indicated the price at which the surveyed distributors purchased the material, nor was it accompanied by information regarding expected profit margins, producer/distributor relationships, promotional arrangements, *etc.* In short, there is still no evidence on the record which clearly indicates what part, or percentage, of the price differential can be credited to TISCO's trademark.

Comment 6: TISCO contends that although the Department deducted home market packing costs and added U.S. packing costs to home market sales, the Department did not properly convert the packing costs from rupees to dollars. Petitioner did not comment on this issue.

Department's Position: The Department agrees with respondent, and this correction is reflected in the final results of this review.

Comment 7: Petitioner argues that the Department should add to FMV the amount of taxes imposed upon home market sales and then add to U.S. price the taxes that otherwise would have been assessed on the exported merchandise had it been sold in the home market. This would account for that tax amount which was rebated or not collected on the exported merchandise.

Furthermore, citing *Daewoo Electric Co.* v. *United States,* 760 F. Supp. 200 (CIT 1991) (Daewoo II) and *Zenith Electric Corp.* v. *United States,* 633 F. Supp. 1382 (CIT 1986) (Zenith I), petitioner argues that the Department should increase U.S. price and FMV only by the amount of the taxes actually passed through to TISCO's home market customers. Petitioner cites section 772(d)(1)(C) of the Act, which limits the amount of taxes that are added to or included in the price of comparison merchandise sold in the U.S. market by the amount of the tax reflected in the home market price.

Respondent states that the Department properly accounted for home market taxes that were not collected upon exportation. TISCO contends that these taxes are included in its home market price, and thus do not need to be added to home market price as petitioner suggests.

TISCO also argues that the Department properly treated the issue of the amount of tax actually passed through to TISCO's home market customers, in accordance with long-standing Department policy.

Department's Position: The Department disagrees with petitioner. Because two of these taxes are based upon flat rates per ton, the Department simply added to U.S. price the home market tax rates on a per ton basis. In the case of the third tax, which is a ten percent tax based upon the value of the material, the Department would normally add the appropriate tax value to U.S. price and make a COS adjustment in order to account for the different values of the tax between the U.S. and home market sales. However, because the home market price included the tax amount and because we lacked information on what the tax value was, we applied the ten percent tax to the U.S. price without making a COS adjustment.

We do not agree with the CIT's decision in Zenith I or Daewoo II, but have not had an opportunity to appeal this issue on its merits. Consistent with the Department's long-standing practice, we have not attempted to measure the amount of tax incidence in the home market. We do not believe that the statutory language limiting the amount of adjustment to the amount of commodity tax "add to or included in the price" of pipe and tube sole in India requires the Department to measure the home market tax incidence. We are satisfied that the record shows that these taxes were imposed and paid on home market sales, and therefore, TISCO is entitled to these adjustments to U.S. price.

Comment 8: Petitioner argues that all of the commissions paid by TISCO on its sales to the U.S. should be deducted from U.S. price. The Department verified that all the commissions were paid to either Tata New York (Tata NY) or to an unrelated firm. According to petitioner, commissions paid to an unrelated firm are expenses which must be deducted from U.S. price. Petitioner also argues that the Department should assume that the commissions paid to Tata NY were

at arm's length and represent actual expenses relating to the movement of pipe that would have been incurred as an expense regardless of the nature of the relationship to TISCO of the party performing the service. As a result, petitioner states that the Department should deduct the full amount of the commission from U.S. price as a direct selling expense.

TISCO contends that the Department properly accounted for the commissions paid by TISCO on its U.S. sales. TISCO argues that the Department has a long-standing policy of not deducting such commissions when they are considered intracompany transfers. TISCO also contends that the commissions paid by TISCO are in no way associated with movement expenses.

Department's Position: The Department agrees with petitioner that the commissions paid to unrelated parties on U.S. sales should be deducted from U.S. price and this correction is reflected in the results. With regards to the payment of commissions to related parties, the Department determined at verification that Tata NY is a related party. The Department will adjust for commissions paid to a related party when it can be determined that the commissions in question are (1) at arm's length and (2) directly related to the sales in question. *LMI la Metalli Industriala, S.p.A.* v. *United States*, 912 F.2d 455 (Fed. Cir. 1990). In order to determine if commissions paid to related parties either in the United States or in the foreign market are at arm's length, the Department will first consider whether there are commissions paid to related and unrelated sales agents in the same market. If the commissions paid to the two parties are on comparable terms, we will determine that the commissions to the related parties are at arm's length. If there are no commissions paid to unrelated parties, the Department has developed a further test to determine if the commissions are at arm's length. See Final Determination of Sales at Less than Fair Value: Coated Groundwood Paper from Finland, 56 FR 56363 (1990). In the instant case TISCO has paid commissions to both related and unrelated sales agents in the U.S. The terms of the two commissions are not comparable, and therefore, we have determined that the commissions paid to the related sales agent are not at arms length.

Comment 9: In the preliminary results, the Department granted TISCO's claim for an adjustment for the CCS rebate, an export rebate of indirect taxes incurred in the home market. Petitioner contends that before granting this adjustment in the final results, the Department should examine the issue of whether the indirect taxes on physically-incorporated inputs equal or exceed the amount of the rebate. Petitioner also contends that TISCO has not demonstrated that it pays as much in indirect taxes on physically-incorporated inputs as it receives through the CCS rebate.

According to petitioner, the adjustment to U.S. price must be limited to those indirect taxes that are levied on inputs that are physically incorporated into the exported product. Petitioner also alleges that TISCO's November 1, 1991 letter indicates that its CCS adjustment claim is based upon taxes incurred on number of inputs that were not physically incorporated in the exported pipe or a prior stage product (limestone, stores materials, power, and other fuel).

Petitioner notes that when the Department examines rebates for indirect taxes in the context of countervailing duty investigations, it always compares government rebates with the actual indirect taxes incurred in producing the product under investigation. This analysis is critical because any excessive rebates are considered by the Department of confer a benefit to the recipient.

TISCO argues, however, that in the context of an antidumping duty administrative review, such analysis is not valid. According to TISCO, the focus of the countervailing duty law is separate and distinct from that of the antidumping law, and for this reason the Department has long recognized the dangers of allowing the concerns of the antidumping and countervailing duty laws to be commingled (See *Huffy Corp.* v. *United States*, 632 F. Supp. 50, 55 (CIT 1986)). Respondent states, furthermore, that the Department's position is consistent with its determination in the two previous reviews and with the LTFV investigation.

Department's Position: We agree with respondent. The Department verified that TISCO imported certain raw materials which were incorporated into both the production process and in the final product which was then exported to the United States, and that duties were not collected or paid on this material by reason of future exportation. The Department is satisfied that the adjustment claimed by TISCO is reasonable and, as TISCO acknowledges on the record, is less than the actual tax paid. In addition, the adjustment is consistent with the determination made in the two previous administrative reviews of Indian pipe. The Department agrees that the principle articulated in *Huff Corp.* v. *United States* applies here, and questions regarding the existence of countervailable subsidies are best addressed in the context of a countervailing duty investigation.

Comment 10: Petitioner contends that the Department's calculation of the indirect taxes borne by TISCO's exported pipe is flawed because the Department's calculation of the taxes rebated by the CCS ignores the fact that much of TISCO's standard pipe exported to the U.S. was made from inputs that were imported duty-free under Advance License. Should the Department reaffirm its preliminary decision to grant an adjustment for duties foregone on imports of inputs made under Advance License, the incidence of indirect taxes on the corresponding exports must be reduced by the amount of all taxes that would have been imposed up through the pig iron stage on that quantity of domestic inputs.

According to petitioner, the actual indirect tax incidence would then be the weighted average of the tax incidence on all the exported pipe produced (a) from Advance License Inputs and (b) from inputs on which TISCO did not use an Advance License. This weighted average should then be compared to the CCS rebate to determine whether the CCS provides too large a rebate of indirect taxes. The Department should follow the procedures set out in the antidumping investigation of Steel Wire Rope from India (56 FR 46284; Sept. 11, 1991).

Department's Position: The Department disagrees with petitioner. The Department views TISCO's use of the Advance License program and the CCS program to be independent of each other. In addition, Steel Wire Rope from India is a countervailing duty investigation and therefore is not immediately relevant to this antidumping duty administrative review. Should there be a question regarding the propriety of the benefits received under these programs, interested parties may respond accordingly through existing countervailing duty procedures.

Comment 11: Petitioner contends that the Department omitted two additional elements from its calculation of the net price on purchase price sales. Ocean freight and marine insurance were incurred on sales sold on a CIF basis, as reported by TISCO. Therefore, the Department should modify its calculations to ensure that these charges are deducted on purchase price sales.

Respondent did not comment on this issue.

Department's Position: The Department agrees with petitioner, and this correction is reflected in the final results of this review.

Final Results of the Review

As a result of our comparison of United States price to foreign market value, we determine that the following margin exists for the period May 1, 1990 through April 30, 1991:

Manufacturer/exporter	Percent margin
Tata Iron and Steel Company, Ltd. (TISCO)	37.65

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. Individual differences between United States price and foreign market value may vary from the percentage stated above. The Department will issue appraisement instructions directly to the Customs Service.

Furthermore, the following deposit requirements will be effective upon publication of this notice of final results of administrative review for all shipments of the subject merchandise, entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided by section 751(a)(1) of the Act: (1) The cash deposit rate for TISCO will be 37.65 percent; (2) for previously reviewed or investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the original less-than-fair-value investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) the cash deposit rate for all the other manufacturers or exporters who are not covered in this or prior administrative reviews and who are unrelated to the reviewed firm will be 37.65 percent. This rate represents the highest rate for any firm in the latest administrative review (whose shipments to the United States were reviewed), other than those firms receiving a rate based entirely on best information available.

These deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

This notice also serves as a final reminder to importers of their responsibility to file a certificate regarding the reimbursement of antidumping duties pursuant to 19 CFR 353.26 prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

In addition, this notice serves as the only reminder to parties subject to administrative protective order (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 353.34(d). Failure to comply is a violation of the APO.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 USC 1675(a)(1)) and 19 CFR 353.22.

Dated: November 9, 1992.

Rolf Th. Lundberg, Jr.,

Acting Assistant Secretary for Import Administration.

[FR Doc. 92-27998 Filed 11-17-92; 8:45 am]

BILLING CODE 3510-DS-M

[C-357-404]

Certain Textile Mill Products From Argentina; Notice of Final Court Decision and Rescission of Revocation of Countervailing Duty Order

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

ACTION: Notice of final court decision and reinstatement of countervailing duty order.

SUMMARY: On March 24, 1992, the United States Court of International Trade (CIT) reversed the Department of Commerce (Commerce) decisions in Certain Textile Mill Products from Argentina, Certain Textile Mill Products and Apparel from Peru and Sri Lanka, Certain Textile Mill Products and Apparel from Colombia, and Certain Textile Mill Products from Thailand. The CIT held that a domestic interested party had properly objected to Commerce's intent to terminate the suspended countervailing duty investigations involving Thailand and Colombia and intent to revoke the countervailing duty orders involving Argentina, Peru, and Sri Lanka. *Belton Industries, Inc.* v. *United States*, CIT Slip Op. 92-39 (March 24, 1992). In accordance with that decision, on May 7, 1992, the CIT ordered Commerce to rescind the terminations and revocations in the textile and apparel cases, and reinstate the related suspended investigations and countervailing duty orders.

Subsequently, two related appeals were filed with the United States Court of Appeals for the Federal Circuit (CAFC), *Belton Industries, Inc.* v. *United States, et al.*, CAFC Nos. 92-1419, -1421, and -1451, and *Belton Industries, Inc.* v. *United States, et al.*, CAFC Nos. 92-1452, -1483. Because the United States has withdrawn its appeal (No. 92-1421), and Argentina is not a party to the appeals, the CIT decision referenced above has become final and unappealable vis-a-vis the order on certain textile mill products from Argentina.

Thus, consistent with the decision of the Court of Appeals for the Federal Circuit (CAFC) in *The Timken Company* v. *United States*, Slip Op. 89-1489 (January 4, 1990), Commerce is rescinding its revocation of the countervailing duty order on certain textile mill products from Argentina.

EFFECTIVE DATE: May 18, 1992.

FOR FURTHER INFORMATION CONTACT: Lorenza Olivas, Office of Countervailing Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 482-2786.

SUPPLEMENTARY INFORMATION:

Background

On August 13, 1990, Commerce revoked the countervailing duty orders concerning Certain Textile Mill Products from Argentina and Certain Textile Mill Products and Apparel from Peru and Sri Lanka (55 FR 32940-42). On that same date, Commerce terminated the suspended countervailing duty investigation on Certain Textile Mill Products and Apparel from Colombia (55 FR 32940). On November 23, 1990, Commerce terminated in part the suspended countervailing duty investigation on Certain Textile Mill Products from Thailand (55 FR 48885).

Subsequent to publication of Commerce's revocations and terminations, ten domestic producers of textile products and the American Textile Manufacturing Institute (ATMI) filed a lawsuit with the CIT challenging Commerce's revocations and terminations. On March 24, 1992, the CIT issued a decision (Belton, CIT Slip Op. 92-39) and on May 7, 1992, issued its judgment in the matter, directing Commerce to rescind the terminations and revocations in the textile and apparel cases and reinstate the related suspended investigations and

countervailing duty orders. The CIT's March 24, 1992, decision became the final CIT decision in this litigation upon issuance of its judgment on May 7, 1992.

In its decision in *The Timken Company* v. *United States*, 893 F.2d 337 (Fed. Cir. 1990), the CAFC held that Commerce must publish notice of a final decision of the CIT or the CAFC which is not in harmony with Commerce's determination. The CAFC also held that in such a case Commerce must suspend liquidation until there is a "conclusive" decision in the action. Therefore, on May 18, 1992, Commerce directed the United States Customs Service to suspend liquidation of entries of the subject merchandise in Certain Textile Mill Products from Argentina and Certain Textile Mill Products and Apparel from Peru and Sri Lanka at zero percent pending the expiration of the period to appeal the CIT's order of May 7, 1992, or pending a final decision of the CAFC if that order were appealed. See 57 FR 21960 (May 26, 1992). Because entries of the subject merchandise were not suspended previously under the suspended countervailing duty investigations involving Certain Textile Mill Products from Thailand and Certain Textile Mill Products and Apparel from Colombia, Commerce did not order Customs to suspend liquidation in those matters.

Prior to the expiration of the appeal period, the United States, Thailand, and Colombia filed notices of appeal of the CIT's decision and order in the Belton litigation to the CAFC. Because the CIT decision involved Commerce actions in all of the textile and apparel matters, the United States was thus a party to the appeal vis-a-vis those five matters. For that reason, Commerce continued to suspend liquidation consistent with Timken. Subsequently, Peru and Sri Lanka appealed the CIT's separate denial of their motions to intervene post-judgment in the litigation to the CAFC. See *Belton Industries, Inc.* v. *United States*, CIT Slip Op. 92–102 (July 7, 1992).

On October 30, 1992, the CAFC granted the United States motion to dismiss its action, thus changing the United States from an appellant in the Belton appeals to an appellee. Because the United States therefore can no longer challenge the original CIT Belton decision and order for any of the matters, and because the five countries involved can only challenge that decision and order as it affects their individual matter, the CAFC's grant of the United States motion resulted in the CIT decision becoming the final court decision in the action for any matter not pursued at the CAFC by its respective country.

Because Thailand and Colombia appealed the original Belton decision by right to the CAFC, the CIT decision is not the final court decision as to their matters. Because a CAFC reversal of the CIT's denial of the motions of Peru and Sri Lanka might result in those countries also becoming appellants by right in the appeal of the original CIT decision, the CIT decision is not yet the final court decision as to their matters. However, because Argentina is not involved in any of the appeals before the CAFC, and because no other party to the appeal can challenge that decision as it relates to the order on certain textile mill products from Argentina, that decision has become the final, conclusive court decision as to that order.

Thus, consistent with the decision of the CIT in Belton (Slip Op. 92–39), and the CIT's subsequent May 7, 1992, order, Commerce hereby rescinds its August 13, 1990, revocation of the countervailing duty order on certain textile mill products from Argentina. Commerce hereby reinstates the order, effective May order, published at 50 FR 9846 (March 12, 1985), Commerce is directing the U.S. Customs Service to require a cash deposit in the amount of 4.53 percent ad valorem, the last published deposit rate, for each entry of the subject merchandise from Argentina which is entered, or withdrawn from warehouse, for consumption on or after the date of issuance of this notice, November 9, 1992.

Dated: November 9, 1992.

Alan M. Dunn,

Assistant Secretary for Import Administration.

[FR Doc. 92–27996 Filed 11–17–92; 8:45 am]

BILLING CODE 3510–DS–M

National Oceanic and Atmospheric Administration

Western Pacific Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

The Western Pacific Fishery Management Council will hold a public meeting of its Vessel Monitoring System (VMS) Committee on November 17, 1992, from 9 a.m. to 12 noon, at the Conference room of the Pacific Ocean Producers, 965–B North Nimitz Highway, Honolulu, HI.

The VMS Committee will continue to develop its evaluation of the National Marine Fisheries Service draft national VMS policy, and finalize a draft Council (regional) policy statement.

For more information contact Kitty M. Simonds, Executive Director, 1164 Bishop Street, Suite 1405, Honolulu, HI 96813; telephone: (808) 523–1368.

Dated: November 13, 1992.

Alfred J. Bilik,

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

[FR Doc. 92–28072 Filed 11–17–92; 8:45 am]

BILLING CODE 3510–22–M

Western Pacific Fishery Management Council; Public Meetings

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

The Western Pacific Fishery Management Council (Council) will hold its 78th meeting on November 30 through December 2, 1992, at the Ala Moana Hotel, 410 Atkinson Drive, Honolulu, HI. The meeting will begin at 8 a.m. on each day. The Council's Standing Committees will meet on November 30 and the full Council will meet on December 1–2, 1992.

The Council will hear reports from islanders and fishery agencies from the region on the status of pelagic, bottomfish and crustacean fisheries. Also, the Council will discuss and possibly take action on several issues: (1) Modification of the Northwestern Hawaiian Islands bottomfish management program, including Federal logbooks, limiting entry to the Mau Zone fishery, combining the two existing management zones, and Federal minimum fish sizes; (2) modification of the rules regarding the transferability of Federal longline limited entry permits, and longline vessel replacement; (3) management of non-longline pelagic fisheries; (4) data collection initiative; (5) billfish and tuna management; and (6) preferential rights for native fishermen. The Council will also elect new officers and discuss membership for the 1993–1994 Advisory Panel.

For more information, including the schedule of Standing Committee meetings, contact Kitty M. Simonds, Executive Director, Western Pacific Fishery Management Council, 1164 Bishop Street, Suite 1405, Honolulu, HI 96813; telephone: (808) 523–1368; fax: (808) 526–0824.

Dated: November 13, 1992.

Alfred J. Bilik,

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

[FR Doc. 92–28073 Filed 11–17–92; 8:45 am]

BILLING CODE 3510–22–M

Travel and Tourism Administration

Travel and Tourism Advisory Board; Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. (App. 1976) notice is hereby given that the Travel and Tourism Advisory Board of the U.S. Department of Commerce will meet on December 11, 1992, at 9 a.m. at the Ritz Carlton Hotel, 401 Ward Parkway, Kansas City, Missouri 64112.

Established March 19, 1982, the Travel and Tourism Advisory Board consists of 15 members, representing the major segments of the travel and tourism industry and state tourism interests, and includes one member of a travel labor organization, a consumer advocate, an academician and a financial expert.

Members advise the Secretary of Commerce on matters pertinent to the Department's responsibilities to accomplish the purpose of the National Tourism Policy Act (Public Law 97–63), and provide guidance to the Assistant Secretary for Tourism Marketing in the preparation of annual marketing plans.

Agenda items are as follows:

I. Call to Order

II. Roll Call

III. Rural Tourism

IV. Old Business

V. New Business

VI. Miscellaneous

VII. Adjournment

A very limited number of seats will be available to observers from the public and the press. To assure adequate seating, individuals intending to attend should notify the Committee Control Officer in advance. The public will be permitted to file written statements with the Committee before or after the meeting. To the extent time is available, the presentation of oral statements is allowed.

Karen M. Cardran, Committee Control Officer, United States Travel and Tourism Administration, room 1860, U.S. Department of Commerce, Washington, DC 20230 (telephone: 202–482–1904) will respond to public requests for information about the meeting.

Wylie H. Whisonant, Jr.,

Acting Under Secretary of Commerce for Travel and Tourism.

[FR Doc. 92–27901 Filed 11–17–92; 8:45 am]

BILLING CODE 3510–11–M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Establishment of an Import Limit for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in Pakistan

November 12, 1992

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs establishing a limit.

EFFECTIVE DATE: November 19, 1992

FOR FURTHER INFORMATION CONTACT: Anne Novak, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of this limit, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 927–6714. For information on embargoes and quota re-openings, call (202) 482–3715. For information on categories on which consultations have been requested, call (202) 482-3740.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

Inasmuch as consultations have not yet been held on a mutually satisfactory solution on Category 219, the United States Government has decided to control imports in this category for the prorated period beginning on October 25, 1992 and extending through December 31, 1992 at a level of 794,003 square meters.

The United States remains committed to finding a solution concerning this category. Should such a solution be reached in consultations with the Government of Pakistan, further notice will be published in the **Federal Register.**

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 56 FR 60101, published on November 27, 1991). Also see 57 FR 35567, published on August 10, 1992.

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

November 12, 1992

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: Under the terms of section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), and the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as further extended on July 31, 1986; pursuant to the Bilateral Cotton, Man-Made Fiber, Silk Blend and Other Vegetable Fiber Textile Agreement, effected by exchange of notes dated May 20, 1987 and June 11, 1987, as amended, between the Governments of the United States and Pakistan; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on November 19, 1992, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton and man-made fiber textile products in Category 219, produced or manufactured in Pakistan and exported during the period beginning on October 25, 1992 and extending through December 31, 1992, in excess of 794,003 square meters [1].

Imports charged to the category limit for the ninety-day period beginning on July 27, 1992 and extending through October 24, 1992 shall be charged against that level of restraint to the extent of any unfilled balance. In the event the limit established for that period has been exhausted by previous entries, such goods shall be subject to the level set forth in this directive.

For the import period July 27, 1992 through August 11, 1992 there are zero charges to be made to the limit established for Category 219 in the directive dated August 5, 1992.

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 92–28000 Filed 11–17–92; 8:45 am]

BILLING CODE 3510–DR–F

[1] The limit has not been adjusted to account for any imports exported after October 24, 1992.

Adjustment of Import Limits for Certain Cotton, Wool, Man-Made Fiber, Silk Blend and other Vegetable Fiber Textile Products Produced or Manufactured in Taiwan

November 13, 1992

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs adjusting limits.

EFFECTIVE DATE: November 20, 1992

FOR FURTHER INFORMATION CONTACT: Jennifer Aldrich, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 927–6719. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The current limits for certain categories are being adjusted, variously, for swing and carryforward.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 56 FR 60101, published on November 27, 1991). Also see 56 FR 58557, published on November 20, 1991.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

November 13, 1992

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on November 15, 1991, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool, man-made fiber, silk blend, and other vegetable fiber textile products, produced or manufactured in Taiwan and exported during the twelve-month period which began on January 1, 1992 and extends through December 31, 1992.

Effective on November 20, 1992, you are directed to amend further the directive dated November 15, 1991 to adjust the limits for the following categories, as provided under the terms of the bilateral agreement, effected by exchange of notes dated August 21, 1990 and September 28, 1991, as amended:

Category	Adjusted twelve-month limit [1]
Group I	
200–224, 225/317/326, 226, 227, 229, 300/301/607, 313–315, 360–363, 369–L/670–L/870 [2], 369–S [3], 369–O [4], 400–414, 464–469, 600–606, 611, 613/614/615/617, 618, 619/620, 621–624, 625/626/627/628/629, 665, 666, 669–P [5], 669–T [6], 669–O [7], 670–H [8], and 670–O [9], as a group.	583,026,314 square meters equivalent.
Sublevels in Group I	
218	19,862,425 square meters.
225/317/326	35,255,752 square meters.
363	12,785,039 numbers.
611	2,862,953 square meters.
613/614/615/617.	17,755,754 square meters.
619/620	13,050,754 square meters.
In Group I subgroup	
200	641,793 kilograms.
314	26,018,164 square meters.
361	1,275,886 numbers.
Group II	
237, 239, 330–332, 333/334/335, 336, 338/339, 340–345, 347/348, 349, 350/650, 351, 352/652, 353, 354, 359–C/659–C [10], 359–H/659–H [11], 359–O [12], 431–444, 445/446, 447/448, 459, 630–632, 633/634/635, 636, 638/639, 640, 641–644, 645/646, 647/648, 649, 651, 653, 654, 659–S [13], 659–O [14], 831–844, and 846–859, as a group.	735,558,041 square meters equivalent.
Sublevels in Group II	
239	5,511,703 dozen.
331	526,720 dozen pair.
336	125,077 dozen.
338/339	912,614 dozen.
340	1,307,982 dozen.
347/348	2,659,791 dozen of which not more than 1,251,514 dozen shall be in Categories 347–W/348–W [15].
359–H/659–H	4,979,828 kilograms.
442	40,142 dozen.
444	136,632 numbers.
445/446	140,628 dozen.
631	4,711,499 dozen pair.
633/634/635	1,649,305 dozen of which not more than 1,027,908 dozen shall be in Categories 633/634, and not more than 862,541 dozen shall be in Category 635.
640	968,865 dozen of which not more than 287,344 dozen shall be in Category 640–Y [16]
642	804,483 dozen.
644	932,929 numbers.
647/648	5,690,855 dozen of which not more than 5,192,178 dozen shall be in Categories 647–W/648–W [17].
In Group II subgroup	
333/334/335	272,322 dozen of which not more than 147,508 dozen shall be in Category 335.
342	208,355 dozen.
351	432,719 dozen.
447/448	20,783 dozen.

[1] The limits have not been adjusted to account for any imports exported after December 31, 1991.

[2] Category 870; Category 369–L: only HTS numbers 4202.12.4000, 4202.12.8020, 4202.12.8060, 4202.92.1500, 4202.92.3015 and 4202.92.6000; Category 670–L: only HTS numbers 4202.12.8030, 4202.12.8070, 4202.92.3020, 4202.92.3030 and 4202.92.9020.

[3] Category 369–S: only HTS number 6307.10.2005.

[4] Category 369–O: all HTS numbers except 4202.12.4000, 4202.12.8020, 4202.12.8060, 4202.92.1500, 4202.92.3015, 4202.92.6000 (Category 369–L); and 6307.10.2005 (Category 369–S).

[5] Category 669–P: only HTS numbers 6305.31.0010, 6305.31.0020 and 6305.39.0000.

[6] Category 669–T: only HTS numbers 6306.12.0000, 6306.19.0010 and 6306.22.9030.

[7] Category 669–O: all HTS numbers except 6305.31.0010, 6305.31.0020, 6305.39.0000 (Category 669–P); 6306.12.0000, 6306.19.0010 and 6306.22.9030 (Category 669–T).

[8] Category 670–H: only HTS numbers 4202.22.4030 and 4202.22.8050.

[9] Category 670–O: all HTS numbers except 4202.12.8030, 4202.12.8070, 4202.92.3020, 4202.92.3030, 4202.92.9020 (Category 670–L); 4202.22.4030 and 4202.22.8050 (Category 670–H).

[10] Category 359–C: only HTS numbers 6103.42.2025, 6103.49.3034, 6104.62.1020, 6104.69.3010, 6114.20.0048, 6114.20.0052, 6203.42.2010, 6203.42.2090, 6204.62.2010, 6211.32.0010, 6211.32.0025 and 6211.42.0010; Category 659–C: only HTS numbers 6103.23.0055, 6103.43.2020, 6103.43.2025, 6103.49.2000, 6103.49.3038, 6104.63.1020, 6104.63.1030, 6104.69.1000, 6104.69.3014, 6114.30.3044, 6114.30.3054, 6203.43.2010, 6203.43.2090, 6203.49.1010, 6203.49.1090, 6204.63.1510, 6204.69.1010, 6210.10.4015, 6211.33.0010, 6211.33.0017 and 6211.43.0010.

[11] Category 359–H: only HTS numbers 6505.90.1540 and 6505.90.2060; Category 659–H: only HTS numbers 6502.00.9030, 6504.00.9015, 6504.00.9060, 6505.90.5090, 6505.90.6090, 6505.90.7090 and 6505.90.8090.

[12] Category 359–O: all HTS numbers except 6103.42.2025, 6103.49.3034, 6104.62.1020, 6104.69.3010, 6114.20.0048, 6114.20.0052, 6203.42.2010, 6203.42.2090, 6204.62.2010, 6211.32.0010, 6211.32.0025, 6211.42.0010 (Category 359–C); 6505.90.1540 and 6505.90.2060 (Category 359–H).

[13] Category 659–S: only HTS numbers 6112.31.0010, 6112.31.0020, 6112.41.0010, 6112.41.0020, 6112.41.0030, 6112.41.0040, 6211.11.1010, 6211.11.1020, 6211.12.1010 and 6211.12.1020.

[14] Category 659–O: all HTS numbers except 6103.23.0055, 6103.43.2020, 6103.43.2025, 6103.49.2000, 6103.49.3038, 6104.63.1020, 6104.63.1030, 6104.69.1000, 6104.69.3014, 6114.30.3044, 6114.30.3054, 6203.43.2010, 6203.43.2090, 6203.49.1010, 6203.49.1090, 6204.63.1510, 6204.69.1010, 6210.10.4015, 6211.33.0010, 6211.33.0017, 6211.43.0010 (Category 659–C); 6502.00.9030, 6504.00.9015, 6504.00.9060, 6505.90.5090, 6505.90.6090, 6505.90.7090, 6505.90.8090 (Category 659–H); 6112.31.0010, 6112.31.0020, 6112.41.0010, 6112.41.0020, 6112.41.0030, 6112.41.0040, 6211.11.1010, 6211.11.1020, 6211.12.1010 and 6211.12.1020 (Category 659–S).

[15] Category 347–W: only HTS numbers 6203.19.1020, 6203.19.4020, 6203.22.3020, 6203.22.3030, 6203.42.4005, 6203.42.4010, 6203.42.4015, 6203.42.4025, 6203.42.4035, 6203.42.4045, 6203.42.4050, 6203.42.4060, 6203.49.3020, 6210.40.2035, 6211.20.1520, 6211.20.3010 and 6211.32.0040; Category 348–W: only HTS numbers 6204.12.0030, 6204.19.3030, 6204.22.3040, 6204.22.3050, 6204.29.4034, 6204.62.3000, 6204.62.4005, 6204.62.4010, 6204.62.4020, 6204.62.4030, 6204.62.4040, 6204.62.4050, 6204.62.4055, 6204.62.4065, 6204.69.3010, 6204.69.9010, 6210.50.2035, 6211.20.1550, 6211.20.6010, 6211.42.0030 and 6217.90.0050.

[16] Category 640–Y: only HTS numbers 6205.30.2010, 6205.30.2020, 6205.30.2050 and 6205.30.2060.

[17] Category 647–W: only HTS numbers 6203.23.0060, 6203.23.0070, 6203.29.2030, 6203.29.2035, 6203.43.2500, 6203.43.3500, 6203.43.4010, 6203.43.4020, 6203.43.4030, 6203.43.4040, 6203.49.1500, 6203.49.2010, 6203.49.2030, 6203.49.2040, 6203.49.2060, 6203.49.3030, 6210.40.1035, 6211.20.1525, 6211.20.3030 and 6211.33.0030; Category 648–W: only HTS numbers 6204.23.0040, 6204.23.0045, 6204.29.2020, 6204.29.2025, 6204.29.4038, 6204.63.2000, 6204.63.3000, 6204.63.3510, 6204.63.3530, 6204.63.3532, 6204.63.3540, 6204.69.2510, 6204.69.2530, 6204.69.2540, 6204.69.2560, 6204.69.3030, 6204.69.9030, 6210.50.1035, 6211.20.1555, 6211.20.6030, 6211.43.0040 and 6217.90.0060.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 92–28001 Filed 11–17–92; 8:45 am]

BILLING CODE 3510–DR–F

COMMISSION ON NATIONAL AND COMMUNITY SERVICE

National and Community Service Act Subtitle E Programs

AGENCY: Commission on National and Community Service.

ACTION: Notice of availability of funds.

SUMMARY: The Commission on National and Community Service announces the availability of funds for three programs established by Subtitle E of the National and Community Service Act of 1990: the Governors' Innovative Service Program; Rural Youth Service Demonstration Project; and Employer-based Retiree Volunteer Program. The Commission has allocated $200,000 per year for each of these three and two additional programs authorized under subtitle E of the Act. Regulations governing Subtitle E programs are found at 45 CFR Chapter XXV Part 2505 and 2506.

ADDRESSES: Applications should be submitted to the Commission on National and Community Service, 529 14th Street, suite 452, Washington, DC 20045, Attention: Mike Kenefick, no later than December 31, 1992.

FOR FURTHER INFORMATION CONTACT: Peg Rosenberry, at (202) 724–0600.

SUPPLEMENTARY INFORMATION: The Commission hopes to learn from these grants whether the approach represented by each program is a cost-effective means of achieving the goal of engaging Americans in meeting critical community needs through service. All proposals submitted should show how the proposed program will address this goal by developing the leaders, building the systems and establishing the model programs necessary to expand community service opportunities on a large scale. In addition, all grantees will be required to spend four percent of funds to evaluate the effectiveness of their approach, including demonstrated impacts on both participants and community (where applicable).

A. Specific Program Requirements

Each of the three programs covered in this Notice has its own specific purposes, program requirements, and eligible applicants.

(1) Governors Innovative Service Program

Purpose: To support the creation of innovative volunteer and community service programs by providing assistance for service and demonstration activities as well as support functions such as training, technical assistance, and evaluation.

Use of funds: Grants may be made to support one or more of the following activities:

i. Enhancements to existing volunteer and community service programs;

ii. Demonstration programs;

iii. Research concerning and evaluation of service programs;

iv. Coordination of service programs;

v. Technical assistance;

vi. Training and staff development;

vii. Collection and dissemination of information concerning service programs; and

viii. Development, enhancement or implementation of activities related to Comprehensive State Service Plans.

Eligibility: States and Indian tribes are eligible to apply. All State applicants must submit a letter of endorsement from the Governor's office indicating support for the project.

(2) Rural Youth Service Demonstration Project

Purpose: To support demonstration projects in rural areas involving youth volunteers. Rural areas are defined as: Open country which is not part of, or associated with, an urban area; or any town, village, city or place, including the immediately adjacent densely settled area, which is not part of, or associated with, an urban area and which has a population not in excess of 10,000 if it is rural in character or has a population in excess of 10,000 but not excess of 20,000 and is not contained within a Metropolitan Statistical Area.

Use of Funds: Grants may be made to support demonstration projects through which students, school dropouts, and out-of-school youth in rural areas perform education, human, environmental, and public safety service, including services for the elderly, assisted living services for individuals with disabilities, and services targeted at the needs of low-income populations.

Eligibility: States, local government entities, and public and private nonprofit organizations are eligible to apply.

(3) Employer-Based Retiree Volunteer Programs

Purpose: To provide support for employer-based retiree volunteer programs.

Uses of funds: Grants may be made to bring together retirees, their former employers, and community agencies to develop employer-based retiree volunteer programs. Preference will be given to those proposals that are coordinated with other programs or efforts supported by the Commission under the National and Community Service Act.

Eligibility: Public and private nonprofit organizations are eligible to apply.

B. How To Apply

Each application submitted should include the following information:

1. A cover sheet including:

i. The name of the organization that is the legal applicant and the name of any cooperating organization(s);

ii. The name, address, and phone number of a contact person;

iii. The program for which the application is submitted; and

iv. The duration of the project and funds requested for each year.

2a. For Governors Innovative Projects, a double-spaced program narrative of up to 10 pages that includes the following information, to the extent applicable:

i. Description of the proposed program including program goals;

ii. Description of the need that will be addressed;

iii. Description of the target population for the program;

iv. Description of the roles that youth will play in the design, leadership and governance to the program (where applicable);

v. Description of training that will be conducted (where applicable);

vi. Number of individuals/programs that will participate in the project;

vii. Description of the impact the program will have on the state and state service programs and network (where applicable); and

viii. Description of how the program will be evaluated for success in achieving stated goals.

2b. For Rural Youth Demonstration Projects and Employer-Based Retiree Volunteer Programs, a double-spaced program narrative of up to 10 pages that includes the following information, to the extent applicable:

i. Description of the proposed program including program goals;

ii. Description of the human, educational, environmental or public safety service that participants will perform and the State or community need that will be addressed;

iii. Description of the target population of participants and how they will be recruited, trained, organized and supervised;

iv. Description of training for supervisors;

v. Description of procedures to ensure that participants will have the opportunity to reflect on their service experience;

vi. Number of individuals currently involved in service through the program and the number and roles of additional participants and other volunteers who will become involved in service if the grant is awarded; and

vii. Description of how the program will be evaluated for success in achieving stated goals.

3. A budget and budget narrative for the proposed program, not to exceed three pages.

4. Institutional and personnel information, including experience with related programs and demonstrated effectiveness and types of organization (public and private non-profit), not to exceed three pages.

C. Application Deadline

To qualify for consideration, applications must be received on or before December 31, 1992. Applicants should note that the closing date applies to both the date the application is mailed and the hand-delivered date. No faxed proposals will be accepted.

D. Funding Decisions

In determining which proposals to support, the Commission will take into consideration:

1. Quality, including:

i. The soundness of the overall goals and design of the proposed project;

ii. The effectiveness of the program in enabling the target participant population to address the needs of the community;

iii. The plan of operation and staffing, including: the management plan, the evaluation plan, and qualifications and capability of any staff assigned to the project;

iv. The adequacy of the proposed budget in relation to objectives;

v. In the case of rural youth programs, the ability of the program to address the particular needs of assisted individuals in rural areas; and

vi. The demonstrated ability to achieve the overall goals of the Commission.

2. Innovation in any aspect of the program.

3. Replicability—the ability of the proposed program to serve as an effective model, including demonstrating the effectiveness of results.

4. Sustainability—the extent to which the proposed program builds on existing programs, the cost-effectiveness of the proposal, access to diversified or stable funding sources (including evidence of matching funds), and relationship to the State's Comprehensive Plan previously submitted to the Commission.

Commission staff will screen proposals and present recommendations to the Board of Directors. All funding decisions will be made by the Board. Prior to receiving the award, applicants will be expected to sign assurances and certifications required by OMB Circular A–110 and the Act. Copies are available from the Commission.

(42 U.S.C. 12501 et seq.).

Dated: November 3, 1992.

Catherine Milton,

Executive Director.

Terry Russell,

General Counsel.

[FR Doc. 92–27880 Filed 11–17–92; 8:45 am]

BILLING CODE 6820–BA–M

DEPARTMENT OF DEFENSE

Public Information Collection Requirement Submitted to OMB for Review

ACTION: Notice.

The Department of Defense has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Title, Applicable Form, and Applicable OMB Number: Facilities Available for the Construction or Repair of Ships; Standard Form 17, OMB Control No. 0703–0006.

Type of Request: Revision.

Average Burden Hours/Minutes Per Response: 4 hours.

Responses Per Respondent: 1.

Number of Respondents: 250.

Annual Burden Hours: 1,000.

Annual Responses: 250.

Needs and Uses: The purpose of the Standard Form 17 is to provide Commander, Naval Sea Systems Command with a list of facilities available for the construction or repair of ships and a database for assessing the production capability of the individual shipyards.

Affected Public: Businesses or other for profit.

Frequency: Annually and when requested.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Mr. Edward C. Springer.

Written comments and recommendations on the proposed information collection should be sent to Mr. Springer at the Office of Management and Budget, Desk Officer for DOD, room 3235, New Executive Office Building, Washington, DC 20503.

DOD Clearance Officer: Mr. William P. Pearce.

Written requests for copies of the information collection proposal should be sent to Mr. Pearce, WHS/DIOR, 1215 Jefferson Davis Highway, suite 1204, Arlington, VA 22202–4302.

Dated: November 13, 1992.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer Department of Defense.

[FR Doc. 92–27908 Filed 11–17–92; 8:45 am]

BILLING CODE 3810–01–M

Office of the Secretary

DoD Advisory Group on Electron Devices; Meeting

SUMMARY: Working Group B (Microelectronics) of the DoD Advisory Group on Electron Devices (AGED) announces a closed session meeting.

DATES: The meeting will be held at 9 a.m., Tuesday, 1 December 1992.

ADDRESSES: The meeting will be held at Palisades Institute for Research Services, Inc., 2011 Crystal Drive, suite 307, Arlington, VA 22202.

FOR FURTHER INFORMATION CONTACT: Warner Kramer, AGED Secretariat, 2011 Crystal Drive, suite 307, Arlington, VA 22202.

SUPPLEMENTARY INFORMATION: The mission of the Advisory Group is to provide the Under Secretary of Defense for Acquisition, the Director, Defense Advanced Research Projects Agency and the Military Departments with technical advice on the conduct of economical and effective research and development programs in the area of electron devices.

The Working Group B meeting will be limited to review of research and development programs which the military proposes to initiate with industry, universities or in their laboratories. The microelectronics area includes such programs on semiconductor materials, integrated circuits, charge coupled devices and memories. The review will include classified program details throughout.

In accordance with section 10(d) of Public Law No. 92–463, as amended, (5 U.S.C. App. II 10(d) (1988)), it has been determined that this Advisory Group meeting concerns matters listed in 5 U.S.C. 552b(c)(1) (1988), and that accordingly, this meeting will be closed to the public.

Dated: November 13, 1992.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 92–27902 Filed 11–17–92; 8:45 am]

BILLING CODE 3810–01–M

DOD Advisory Group on Electron Devices; Meeting

SUMMARY: Working Group A (Microwave Devices) of the DOD Advisory Group on Electron Devices (AGED) announces a closed session meeting.

DATES: The meeting will be held at 9 a.m., Tuesday, 8 December 1992.

ADDRESSES: The meeting will be held at Palisades Institute for Research Services, Inc., 2011 Crystal Drive, suite 307, Arlington, VA 22202.

FOR FURTHER INFORMATION CONTACT: Walter Gelnovatch, AGED Secretariat, 2011 Crystal Drive, suite 307, Arlington, VA 22202.

SUPPLEMENTARY INFORMATION: The mission of the Advisory Group is to provide the Under Secretary of Defense for Acquisition, the Director, Defense Advanced Research Projects Agency and the Military Departments with technical advice on the conduct of economical and effective research and development programs in the area of electron devices.

The Working Group A meeting will be limited to review of research and development programs which the Military Departments propose to initiate with industry, universities or in their laboratories. This microwave device area includes programs on developments and research related to microwave tubes, solid state microwave devices, electronic warfare devices, millimeter wave devices, and passive devices. The review will include details of classified defense programs throughout.

In accordance with section 10(d) of Public Law 92–463, as amended, (5 U.S.C. app. II 10(d) (1988)), it has been determined that this Advisory Group meeting concerns matters listed in 5 U.S.C. 552b(c)(1) (1988), and that accordingly, this meeting will be closed to the public.

Dated: November 13, 1992.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 92–27903 Filed 11–17–92; 8:45 am]

BILLING CODE 3810–01–M

Department of the Army

Office of the Secretary of the Army; Draft Environmental Impact Statement for Army Realignments at Redstone Arsenal, AL

AGENCY: United States Army, Department of Defense.

ACTION: Notice of availability.

SUMMARY: In accordance with Public Law 101–510, the Defense Base Closure and Realignment Act of 1990, the Defense Base Closure and Realignment Commission recommended the realignment of the Materiel Readiness Support Activity from Lexington-Bluegrass Army Depot, Kentucky; the Logistics Control Activity from the Presidio of San Francisco, California, and the Armament and Chemical elements of the Armament, Munitions and Chemical Command from Rock Island Arsenal, Illinois, to Redstone Arsenal, Alabama. These recommendations became law on October 2, 1991. Subject document focuses on the environmental and socioeconomic impacts and mitigations associated with the construction and site decisions for the facilities to accommodate the new activities at Redstone Arsenal.

No long-term adverse ecological or environmental health effects are expected due to construction of the required facilities. The increase in population, caused by the realignment of the above mentioned logistics functions is expected to have a net positive impact on the local economy. The preferred alternative sites for the proposed construction projects are not expected to significantly impact environmental resources.

A scoping meeting was held in Huntsville, Alabama, on December 12, 1991. Public notices requesting input and comments from the public were issued in the regional area surrounding Redstone Arsenal.

DATES: Written public comments and suggestions received on or before January 4, 1993 will be addressed in the final Environmental Impact Statement.

ADDRESSES: Copies of the Draft Environmental Impact Statement can be obtained by writing to the United States Army Corps of Engineers, Mobile District, ATTN: CESAM–PD–E, 109 Saint Joseph Street, P.O. Box 2288, Mobile, Alabama 36628–0001.

FOR FURTHER INFORMATION CONTACT: Mr. Glen Coffee at (205) 690–2729.

Dated: November 12, 1992.

Lewis D. Walker,

Deputy Assistant Secretary of the Army, (Environment, Safety and Occupational Health), OASA (IL&E).

[FR Doc. 92–27932 Filed 11–17–92; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF ENERGY

Notice of Intent to Prepare a Programmatic Environmental Impact Statement on the Groundwater Restoration Phase of the Uranium Mill Tailings Remedial Action Project

AGENCY: Department of Energy.

ACTION: Notice of intent to prepare a programmatic environmental impact statement.

SUMMARY: The Department of Energy (DOE) announces its intent to prepare a programmatic environmental impact statement (PEIS) pursuant to the National Environmental Policy Act (NEPA) of 1969 (42 U.S.C. 4321 *et seq.*) to assess the potential environmental consequences of the alternatives for conducting a groundwater compliance program for inactive mill tailings sites under the Uranium Mill Tailings Radiation Control Act (UMTRCA), and to conduct a series of public scoping meetings.

The purpose of the Uranium Mill Tailings Remedial Action (UMTRA) Groundwater PEIS is to develop a

strategy for determining the appropriate groundwater compliance method(s) to be implemented at the 24 UMTRA Project sites. The UMTRA Groundwater PEIS will include discussions of the potential methods of complying with the U.S. Environmental Protection Agency's (EPA's) groundwater cleanup standards, such as restoring groundwater to background levels; restoring groundwater to health-based levels referred to as maximum concentration limits (MCLs); restoring groundwater to less restrictive alternate concentration levels (ACLs) which would still protect human health and the environment; and applying site-specific supplemental standards. The PEIS will evaluate a range of groundwater remediation approaches and technologies, ranging from passive remediation methods such as natural flushing to active methods such as extraction and treatment of the contaminated groundwater. The PEIS will assess the programmatic environmental impacts, including cumulative impacts, associated with the different alternatives. DOE intends to prepare additional NEPA documents [i.e., environmental assessments (EAs)] for UMTRA Project sites where groundwater remediation methods will be proposed to implement a programmatic record of decision (ROD) based on the UMTRA Groundwater PEIS. The EAs will tier off the PEIS and will incorporate other existing NEPA documents and technical reports by reference. These EAs will provide site-specific analyses of environmental issues such as floodplains and wetlands, cultural resources, threatened and endangered species, etc.

DATES: The public is invited to submit comments on the scope of the UMTRA Groundwater PEIS. Public scoping meetings for oral comments will be held in 13 locations beginning in December 1992. The dates, times, and locations of the first two public scoping meetings, as well as a listing of cities where the other meetings will be held, are provided below under Locations of Public Scoping Meetings. The dates, times, and locations of the other 11 scoping meetings will be announced in subsequent **Federal Register** notices and the local media in advance of the planned meetings. The close of the public comment period will be announced in the **Federal Register** along with the dates, times, and locations of the last group of scoping meetings to be held in the spring of 1993. To ensure consideration in preparation of the PEIS, written comments should be postmarked by the date the comment period ends. Comments received after this date will be considered to the extent practicable.

ADDRESSES: Written comments on the scope of the UMTRA Groundwater PEIS, requests to speak at the scoping meetings, and questions concerning the UMTRA Project should be directed to: Mr. Albert Chernoff, Project Manager, UMTRA Project Office, U.S. Department of Energy, 5301 Central Avenue, NE., suite 1720, Albuquerque, New Mexico 87108, (505) 845–4628. Fax comments to: (505) 845–4023.

FOR FURTHER INFORMATION CONTACT: For further information on the DOE NEPA process, contact: Ms. Carol M. Borgstrom, Director, Office of NEPA Oversight (EH–25), U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–4600 or (800) 472–2756.

SUPPLEMENTARY INFORMATION:

Background

Title I of UMTRCA, Public Law 95–604, directs DOE to perform remedial actions that would stabilize and control the uranium mill tailings and associated contamination at 24 inactive uranium processing sites in 10 states. Four of the UMTRA Project sites are located on American Indian reservations. The intent of the law is to minimize or eliminate radiation-related health hazards to the general public. UMTRCA directed EPA to establish general standards for these remedial actions, and EPA issued the final standards (40 CFR part 192) in January 1983. DOE's remedial action program is known as the UMTRA Project, and the surface remedial actions (tailings cleanup and disposal) are currently scheduled to be completed in 1996.

In 1985, the U.S. Tenth Court of Appeals remanded the groundwater portion of the EPA standards (40 CFR 192.20(a) (2) and (3)) for the inactive processing sites. The Court directed EPA to establish general groundwater protection standards similar to those EPA established for active uranium processing sites under title II of UMTRCA. On September 24, 1987, EPA proposed revised groundwater protection standards for the UMTRA Project (52 FR 36000). Under UMTRCA, as amended, the proposed groundwater standards will be in effect until they are replaced with final standards.

The proposed EPA groundwater protection standards consists of subparts A, B, and C. Subpart A sets forth the groundwater protection standards and requirements for disposal of the tailings and associated contamination (surface remedial action). Subpart B sets forth the groundwater cleanup standards and requirements for groundwater or aquifer restoration at the inactive processing sites. Subpart C provides guidance for implementation of subparts A and B. DOE is complying with subpart A during the ongoing surface remedial action phase of the UMTRA Project, and will comply with subpart B during the groundwater restoration phase of the UMTRA Project. As a first step in DOE's compliance with subpart B, program-wide environmental impacts of implementing groundwater remediation will be assessed in the UMTRA Groundwater PEIS as a basis for establishing a programmatic remediation strategy.

Preliminary Description of Alternatives

Proposed Action

The proposed action, which is DOE's preferred alternative, is to conduct a groundwater compliance program that will meet the proposed EPA groundwater standards using a consistent decision-making approach covering all 24 UMTRA Project sites. EPA's groundwater standards provide for achieving compliance by implementing one of the following options, as appropriate: (1) Groundwater restoration to background levels; (2) groundwater compliance to health-based levels called MCLs, which are likely derived from standards established under the Federal Safe Drinking Water Act; (3) groundwater compliance to ACLs, which although higher than MCLs, would still be protective of human health and the environment; and (4) apply site-specific supplemental standards when any of the following conditions applies: (a) The site's natural water quality is poor or of limited quantity; (b) groundwater restoration would create more environmental harm than benefit; or (c) compliance with more restrictive standards is not technically possible. Selection of a remediation method for each of the 24 UMTRA Project sites from among these four options will be made after sufficient site-specific information is evaluated. The proposed action will provide a strategy for determining the appropriate groundwater remediation method for each of the UMTRA Project sites and ensure that the same criteria are used in the selection process for all sites.

No Action

Under this alternative, no groundwater restoration activities would occur at any of the 24 UMTRA Project sites. This alternative serves as a baseline against which the

environmental effects of the proposed action and the other remedial alternatives may be evaluated. Implementation of the no-action alternative would not comply with the proposed EPA groundwater standards at most of the UMTRA Project sites. It would also likely result in the migration of contaminants into previously uncontaminated areas.

The following alternatives represent different programmatic approaches to the cleanup of groundwater at the UMTRA Project sites, including the most environmentally protective and least protective approaches. While it is not clear that any of these alternatives could reasonably be implemented at *all* sites, the PEIS will examine the environmental impacts and other issues (e.g., reliability, technical feasibility, etc.) associated with attempting to apply each alternative.

Conduct Groundwater Remediation Based on Current Knowledge of the Sites

Under this alternative, the UMTRA Project sites that require groundwater remediation would be determined based on the current knowledge of the sites. Groundwater remediation would be conducted in accordance with the proposed EPA groundwater standards as discussed under the proposed action. Current groundwater characterization and risk assessment data would be used to make these determinations. The currently available groundwater data were collected to facilitate surface remediation; in many cases, the data do not fully describe the existing groundwater conditions for groundwater remediation. Therefore, under this alternative, there is a risk that: (1) Improper decisions may be made regarding the sites that require remediation; (2) the appropriate groundwater remediation method may not be chosen; (3) areas requiring remediation may not be identified; and (4) the health risk calculations may be inaccurate. It is not clear that remedial actions under this alternative would provide the "reasonable assurance" that cleanups have complied with EPA groundwater standards that is required by 40 CFR 192.12.

Restore Groundwater Quality to Background at All Sites

Under this alternative, UMTRA Project sites that have groundwater contamination related to uranium processing (almost all sites) would be cleaned up to background levels regardless of the level of contamination or the health risk to the public. Cleanup to background levels may exceed the requirements of EPA's groundwater standards at some sites.

Provide Clean Water at the Point of Use

Under this alternative, water that is being used for domestic purposes or for other human-related uses, such as livestock grazing, would be cleaned up at the point of use. For example, water would be treated as it is extracted or alternative water sources would be provided. The contaminated groundwater itself would be not be cleaned up. This alternative would not achieve compliance with the proposed EPA groundwater standards.

Identification of Potential Issues

DOE has identified the issues listed below as topics to be addressed in the UMTRA Groundwater PEIS. This list is presented to facilitate discussion on the scope of the UMTRA Groundwater Project PEIS. The listing is not intended to be all inclusive or to predetermine the scope of the PEIS. The scoping process may identify additional issues.

1. Formulation of a strategy for determining the appropriate groundwater remediation method for each of the 24 UMTRA Project processing sites.
2. The assumptions and methodologies for of assessing risk to human health and the environment from contaminated groundwater.
3. Description of groundwater remediation methods (both passive and active) that could be implemented at the various UMTRA Projects sites.
4. Assessment of program-wide environmental impacts, including cumulative impacts, associated with the proposed action and the alternatives.
5. Assessment of socioeconomic impacts associated with the proposed action and alternatives.
6. The potential effectiveness of institutional controls (e.g., deed restrictions) and monitoring.
7. Pollution prevention and waste minimization measures.
8. Potential irreversible and irretrievable commitment of resources.

The following issues are not within the scope of the UMTRA Groundwater Project PEIS: (1) Site-specific groundwater restoration methodologies and impacts; (2) alternatives to EPA's proposed groundwater standards; and (3) compliance with Subpart A of the proposed standards (surface remediation), currently scheduled to be completed in 1996.

Public Scoping Meetings and Invitation to Comment

DOE is committed to providing opportunities for public involvement by individuals and organizations in this and other DOE planning activities. To ensure that a full range of issues related to groundwater compliance at the UMTRA Project sites is addressed, DOE invites oral and written comments on the proposed scope of the UMTRA Groundwater PEIS from all interested parties. DOE will conduct pre-scoping orientation meetings at selected UMTRA Project sites and scoping meetings as listed under Location of Public Scoping Meetings.

The pre-scoping orientation meetings will be informal and designed to facilitate the maximum possible interchange between the public and DOE. At these meetings, the public will be given a brief overview of the groundwater compliance phase of the UMTRA Project. The meetings will then be opened up to all participants for discussion. The dates, times, and locations, of these meetings will be announced in the local media.

Individuals and organizations are invited to present oral or written comments on the scope of the PEIS at public scoping meetings to be held in the region as described below. Written comments can be submitted without attending a public scoping meeting by sending the comments to the location specified above under Address. Written and oral comments will be given equal weight in defining the scope of the PEIS and issues to be addressed. The scoping meetings will begin with a welcome and introduction, followed by short presentations by DOE officials on the PEIS process and the UMTRA Project. Interested individuals and organization spokespersons will then have an opportunity to present oral comments to DOE representatives. The meetings will be chaired by a presiding officer. DOE will not conduct the scoping meetings as evidentiary hearings and will not cross-examine the speakers. However, the presiding officer and DOE representatives may ask questions for clarification. Individuals requesting to speak on behalf of an organization must identify the organization. To ensure that all who wish to speak have an opportunity, a 5-minute limit will be imposed on each individual speaker and a 10-minute limit on speakers representing organizations. Comments will be recorded by a court reporter and will become part of the scoping meeting record. Speakers are encouraged to provide a written copy of their oral comments for the record during the meeting. Written comments will also be accepted at the meeting. The agenda will be exercised twice a day at each

scoping location, in afternoon and evening sessions.

After the public scoping process is completed, an UMTRA Groundwater PEIS Implementation Plan (IP) will be prepared and made available to the public. The IP will record the results of the scoping process and describe the alternatives and issues to be evaluated in the UMTRA Groundwater project PEIS. DOE intends to complete the draft PEIS by late 1993. Availability of the draft PEIS will be announced in the **Federal Register**, and public comments will be solicited. Comments on the draft PEIS will be considered in identifying and evaluating issues and alternatives and in preparing the final UMTRA Groundwater Project PEIS. DOE expects to issue the final PEIS, including responses to public comments received on the draft PEIS, by late 1994. DOE will select a remedial action alternative in the ROD to be issued no sooner than 30 days after the final PEIS is issued. Following completion of the UMTRA Groundwater Projects PEIS and ROD, a Mitigation Action Plan (MAP) that addresses mitigation commitments expressed in the ROD will be prepared. No action directed by the ROD that is the subject of a mitigation commitment will take place before the MAP is prepared.

Location of Public Scoping Meetings

Public scoping meetings will be held in 13 locations beginning in December 1992. The first two public scoping meetings will be held at the locations, dates, and times listed below. The scoping meetings will also be announced in the local public media at least 15 days in advance.

Falls City, Texas—December 8, 1992, 2:00–5:00 pm & 7:00–10:00 pm, Falls City Community Center, U.S. Highway 181 and Meters Street.

Durango, Colorado—December 10, 1992, 2:00–5:00 pm & 7:00–10:00 pm, Durango City Council Chamber, 949 East 2 Avenue.

The listing of cities where the other 11 public scoping meeting will be held is provided below. The dates, times, and locations of these meetings will be announced in subsequent **Federal Register** notices and in the local media at least 15 days before the meetings.

Moenkopi Village, Arizona
Tuba City, Arizona
Window Rock, Arizona
Grand Junction, Colorado
Gunnison, Colorado
Rifle, Colorado
Bowman, North Dakota
Lakeview, Oregon
Canonsburg, Pennsylvania
Salt Lake City, Utah
Riverton, Wyoming

Related DOE NEPA Reviews

A number of NEPA documents may be relevant to groundwater compliance issues at the UMTRA Project sites and be of interest to the public. These documents have been planned by (or prepared in consultation with) DOE, and are either in various stages of preparation or have been finalized. These documents include, but are not limited to the following:

1. Environmental Restoration and Waste Management PEIS (EM-PEIS)

On October 22, 1990, DOE announced its intent to prepare an EM–PEIS (55 FR 42633) to assess the potential environmental consequences of alternatives for implementing an integrated DOE-wide environmental restoration and waste management program. DOE's environmental restoration activities include the assessment and physical cleanup of contamination at DOE installations and other properties. DOE's environmental restoration activities include the UMTRA Project. The EM-PEIS will not address the surface remedial actions of the UMTRA Project, however, because these remedial actions are expected to be close to completion prior to the issuance of a ROD for the EM-PEIS. The groundwater restoration phase of the UMTRA Project is just beginning and will be included in the EM-EIS. However, the EM-PEIS will not provide the level of detail that is necessary to allow the tiering of site-specific EAs for UMTRA groundwater restoration activities. DOE is therefore preparing a separate PEIS for the groundwater restoration phase of the UMTRA Project.

2. UMTRA Surface Remediation NEPA Documents

DOE has prepared, or is currently preparing, NEPA documents for surface remedial actions at the 24 UMTRA Project sites. To date, the UMTRA Project has completed EISs for six sites and EAs for 12 sites; EAs for the remaining six sites are being prepared.

Related EPA Documentation

EPA has prepared the following documents relevant to the UMTRA Project and the UMTRA Groundwater PEIS.

1. Final Environmental Impact Statement for Remedial Action Standards for Inactive Uranium Processing Sites (40 CFR 192), EPA 520/4–82–013–1 and 2, October 1982, U.S. Environmental Protection Agency, Washington, DC.

2. Title 40, Code of Federal Regulations, Part 192, Health and Environmental Protection Standards for Uranium and Thorium Mill Tailings.

3. **Federal Register**, Volume 52, Number 185, 40 CFR 192, Standards for Remedial Actions at Inactive Uranium Processing Sites, Proposed Rule, September 24, 1987, U.S. Environmental Protection Agency, Washington, DC.

4. Groundwater Protection Standards for Inactive Uranium Tailings Sites (40 CFR 192), Background Information for Proposed Rule, EPA 520/1–87–014, July 1987, U.S. Environmental Protection Agency, Washington, DC.

5. Groundwater Protection Standards for Inactive Uranium Tailings Sites (40 CFR 192), Background Information for Final Rule, EPA 520/1–88–023, March 1989, U.S. Environmental Protection Agency, Washington, DC.

These documents and other related information are or will be available at the DOE Public Reading Room, DOE National Atomic Museum, Kirtland Air Force Base, Building 20358, Albuquerque, NM, 87185–5400, Monday through Friday, during business hours (9 am—5 pm). When completed, copies of the scoping meeting transcripts, the implementation plan, and major references used in preparing the UMTRA Groundwater PEIS will also be available during normal business hours at the DOE Public Reading Room. The transcript of each scoping meeting will be retained by DOE, and a copy will be made available for inspection at the DOE Freedom of Information Reading Room (Room 1E–190), Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585, Monday through Friday, during business hours (9 am—4 pm). In addition, anyone may make arrangements to purchase copies of the transcripts.

Those persons who do not wish to submit comments or suggestions during the scoping period but who would like to receive a copy of the draft PEIS for review and comment should notify Mr. Albert Chernoff at the address listed above.

Issued in Washington, D.C., this 12th day of November, 1992.

Peter N. Brush,

Acting Assistant Secretary, Environment, Safety and Health.

[FR Doc. 92–27967 Filed 11–17–92; 8:45 am]

BILLING CODE 4650–01–M

Office of Fossil Energy

[FE Docket No. 92-93-LNG]

Distrigas Corp.; Order Granting Long-Term Authorization to Import Liquefied Natural Gas From Nigeria

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 Distrigas Corporation authorization to import up to 10 cargoes (approximately 28 million MMBtus) of liquefied natural gas annually from Nigeria over a period of 20 years beginning in 1997.

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, November 10, 1992.

Charles F. Vacek,

Deputy Assistant Secretary for Fuels Programs, Office of Fossil Energy.

[FR Doc. 92-27965 Filed 11-17-92; 8:45 am]

BILLING CODE 6450-01-M

[FE Docket No. 92-117-NG]

Union Pacific Fuels, Inc.; 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 authorizing Union Pacific Fuels, Inc. to export up to 146 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, November 12, 1992.

Charles F. Vacek,

Deputy Assistant Secretary for Fuels Programs, Office of Fossil Energy.

[FR Doc. 92-27964 Filed 11-17-92; 8:45 am]

BILLING CODE 6450-01-M

[FE Docket No. 92-118-NG]

Vector Energy (U.S.A.) 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 on October 29, 1992, it issued an order granting Vector Energy (U.S.A.) Inc. a blanket authorization to import up to 30 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, November 10, 1992.

Charles F. Vacek,

Deputy Assistant Secretary for Fuels Programs, Office of Fossil Energy.

[FR Doc. 92-27966 Filed 11-17-92; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. FE C&E 92-17; Certification Notice—109]

Filing Certification of Compliance; Coal Capability of New Electric Powerplant and Industrial Fuel Use Act

AGENCY: Office of Fossil Energy, Department of Energy.

ACTION: Notice of filing.

SUMMARY: Northern California Power Agency has submitted a coal capability self-certification pursuant to section 201 of the Powerplant and Industrial Fuel Use Act of 1978, as amended.

ADDRESSES: Copies of the self-certification filing are available for public inspection upon request in the Office of Fuels Programs, Fossil Energy, room 3F-056, FE-52, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585.

FOR FURTHER INFORMATION CONTACT: Ellen Russell at (202) 586-9624.

SUPPLEMENTARY INFORMATION: Title II of the Powerplant and Industrial Fuel Use Act of 1978 (FUA), as amended (42 U.S.C. 8301 *et seq.*), provides that no new baseload electric powerplant may be constructed or operated without the capability to use coal or another alternate fuel as a primary energy source. In order to meet the requirement of coal capability, the owner or operator of such facilities proposing to use natural gas or petroleum as its primary energy source shall certify, pursuant to FUA section 201(d), to the Secretary of Energy prior to construction, or prior to operation as a base load powerplant, that such powerplant has the capability to use coal or another alternate fuel. Such certification establishes compliance with section 201(a) on the day it is filed with the Secretary. The Secretary is required to publish a notice in the **Federal Register** that a certification has been filed. The following owner/operator of a proposed new baseload powerplant has filed a self-certification in accordance with section 201(d).

Owner: Northern California Power Agency, Roseville, California.

Operator: Northern California Power Agency.

Location: Lodi, Calfornia.

Plant Configuration: Combined cycle.

Capacity: 49.9 megawatts (mw).

Fuel: Natural gas.

Purchasing Utilities: Alameda—9.50 mw; Lodi—19.70 mw; Lompoc—2.50 mw; Roseville—18.20 mw.

Expected In-Service Date: November 1, 1994.

Issued in Washington, DC on November 10, 1992.

Charles F. Vacek,

Deputy Assistant Secretary for Fuels Programs, Office of Fossil Energy.

[FR Doc. 92-27968 Filed 11-17-92; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket Nos. ER93-96-000, et al.]

Delmarva Power & Light Co., et al.; Electric Rate, Small Power Production, and Interlocking Directorate Filings

Take notice that the following filings have been made with the Commission:

1. Delmarva Power & Light Company

[Docket No. ER93-96-000]

November 5, 1992.

Take notice that Delmarva Power & Light Company (Delmarva) of Wilmington, Delaware, tendered for filing on November 3, 1992 revised rate schedule sheets to increase its firm power rates to apply a surcharge to recover mine closing costs, to increase its transmission rate for the transmission voltage class, to decrease its transmission rate for the distribution voltage class, and to change the firm power rates' billing and termination of

service provisions. The affected customers and their FERC rate schedules are as follows:

Customer	FERC rate schedule No.
Old Dominion Electric Cooperative	51, 52, 53
Lewes, Delaware	61
Seaford, Delaware	62
Berlin, Maryland	63
Clayton, Delaware	64
Middletown, Delaware	65
New Castle, Delaware	66
Milford, Delaware	67
Smyrna, Delaware	68
Newark, Delaware	69

Delaware asks that the proposed firm power increase be granted a January 3, 1993 effective date. Delmarva states that it will not oppose suspension of the rate increase until June 1, 1993. The aggregate increase in the firm power rate is approximately $5.57 million or about 5.4% to the affected customers. Delmarva states that the proposed transmission rate increases and decreases are not substantial.

According to Delmarva, it has filed the rate increase in order to recover its increased costs of providing electric service and to earn a fair return on its investment dedicated to the public service.

Delmarva further states that a copy of the filing has been posted as required by the Commission's regulations, and a copy has been mailed to each of the customers affected by the proposed changes and to the public service commissions of the States of Delaware, Maryland and Virginia in which the affected customers are located.

Comment date: November 20, 1992, in accordance with Standard Paragraph E at the end of this notice.

2. Southern California Edison Company

[Docket No. ER93–54–000]

November 5, 1992.

Take notice that on October 30, 1992, Southern California Edison Company (Edison) tendered for filing the following supplemental agreements to the 1990 Integrated Operations Agreement (1990 IOA) approved by the Commission on July 30, 1990 in Docket No. ER81–177–011 (Phase II) and the related amended firm transmission service agreements, for the Cities of Azusa, Banning, and Colton (Cities):

For the City of Azusa

Supplemental Agreement Between Southern California Edison Company and The City of Azusa for the Integration of the Azusa, Banning, Colton-Pasadena 40 MW Power Sales Agreement

Amendment No. 1 to the Edison-Azusa Pasadena Firm Transmission Service Agreement Between Southern California Edison Company and The City of Azusa

For the City of Banning

Supplemental Agreement Between Southern California Edison Company and The City of Banning for the Integration of the Azusa, Banning, Colton-Pasadena 40 MW Power Sales Agreement

Amendment No. 1 to the Edison-Banning Pasadena Firm Transmission Service Agreement Between Southern California Edison Company and The City of Banning

For the City of Colton

Supplemental Agreement Between Southern California Edison Company and The City of Colton for the Integration of the Azusa, Banning, Colton-Pasadena 40 MW Power Sales Agreement

Amendment No. 1 to the Edison-Colton Pasadena Firm Transmission Service Agreement Between Southern California Edison Company and The City of Colton

Copies of this filing were served upon the Public Utilities Commission of the State of California and all interested parties.

Comment date: November 19, 1992, in accordance with Standard Paragraph E at the end of this notice.

3. American REF-Fuel Company of Essex County

[Docket No. ER93–110–000]

November 5, 1992.

Take notice that on October 29, 1992, American REF-Fuel Company of Essex County, owner of an electric generating facility located in Newark, New Jersey, submitted for filing, pursuant to Rule 207 of the Commission's Rules of Practice and Procedure, 18 CFR 385.207, a Petition for Order Approving Letter Agreement to Rate Schedule No. 1.

Comment date: November 19, 1992, in accordance with Standard Paragraph E at the end of this notice.

4. Public Service Company of New Hampshire

[Docket No. ER92–481–001]

November 5, 1991.

Take notice that on October 30, 1992, Public Service Company of New Hampshire tendered for filing its compliance filing and refund report with the Commission in this docket pursuant to the Director's October 9, 1992 order.

Comment date: November 20, 1992, in accordance with Standard Paragraph E at the end of this notice.

5. Fitchburg Gas and Electric Light Company

[Docket No. ER92–790–000]

November 5, 1992.

Take notice that on October 30, 1992, Fitchburg Gas and Electric Light Company (Fitchburg) tendered for filing with the Commission an Interconnection Agreement between Fitchburg and KES Fitchburg, L.P. This Agreement is being filed at the request August 20, 1992, in this docket, in which Fitchburg submitted a Transmission Service Agreement between KES and Fitchburg, under which Fitchburg agreed to provide certain transmission services for KES.

Fitchburg has also submitted cost support for the charges set out in the Interconnection Agreement and states that Interconnection Agreement and will not do so until the Agreement has been accepted for filing by the Commission. Fitchburg requests an effective date of January 29, 1991 for the Interconnection Agreement and accordingly, requests waiver for good cause shown. Fitchburg also requests that the Transmission Agreement filed on August 20, 1992 to be made effective as of November 1, 1992, and renews the request for waiver made in its August 20, 1992 filing.

Fitchburg further states that copies of the filing have been served on those entities that received copies of the August 20, 1992 filing.

Comment date: November 20, 1992, in accordance with Standard Paragraph E at the end of this notice.

6. Fitchburg Gas and Electric Light Company

[Docket No. ER92–88–000]

November 5, 1992.

Take notice that on October 30, 1992, Fitchburg Gas and Electric Light Company filed its refund report pursuant to the Commission's order issued September 30, 1992. The refunds, which were calculated in accordance with 18 CFR § 35.19a, total $73,609.44. Fitchburg states that the refund report was served on the affected customers and on the service list.

Comment date: November 20, 1992, in accordance with Standard Paragraph E at the end of this notice.

7. Montaup Electric Company

[Docket No. ER93–56–000]

November 5, 1992.

Take notice that on October 30, 1992, Montaup Electric Company (Montaup or the Company) tendered for filing rate

schedule revisions incorporating the 1993 forecast-billing rate for its purchased capacity adjustment clause (PCAC) for all-requirements service to Montaup's affiliates Eastern Edison Company (Eastern Edison) in Massachusetts and Blackstone Valley Electric Company (Blackstone) in Rhode Island and contract demand service to one affiliate Newport Electric Company and two non-affiliated customers: The Town of Middleborough in Massachusetts and the Pascoag Fire District in Rhode Island. The new forecast billing rate is $14.43217/kW-Mo. Montaup requests that the new rate become effective January 1, 1993 in accordance with the PCAC.

Montaup's filing was served on the affected customers, the Attorneys General of Massachusetts and Rhode Island Public Utilities Commission and the Massachusetts Department of Public Utilities.

Comment date: November 19, 1992, in accordance with Standard Paragraph E at the end of this notice.

8. Southern California Edison Company

[Docket No. ER93–55–000]

November 5, 1992.

Take notice that on October 30, 1992, Southern California Edison Company (Edison) tendered for filing the following supplemental agreements to the 1990 Integrated Operations Agreements (1990 IOAs), Commission Rate Schedule Nos. 247, 248, and 149, approved by the Commission on July 30, 1990 in Docket No. ER81–177–011 (Phase II) and their related amended firm transmission service agreements, for the Cities of Azusa, Banning, and Colton (Cities):

For the City of Azusa

Supplemental Agreement Between Southern California Edison Company and The City of Azusa for the Integration of the Azusa, Banning, Colton-Burbank, Glendale, Pasadena 14 MW Power Sales Agreement

Amendment No. 1 to the Sylmar Firm Transmission Service Agreement Between Southern California Edison Company and City of Azusa

For the City of Banning

Supplemental Agreement Between Southern California Edison Company and The City of Banning for the Integration of the Azusa, Banning, Colton-Burbank, Glendale, Pasadena 14 MW Power Sales Agreement

Amendment No. 1 to the Sylmar Firm Transmission Service Agreement Between Southern California Edison Company and City of Banning

For the City of Colton

Supplemental Agreement Between Southern California Edison Company and The City of Colton for the Integration of the Azusa, Banning, Colton-Burbank, Glendale, Pasadena 14 MW Power Sales Agreement

Amendment No. 1 to the Sylmar Firm Transmission Service Agreement Between Southern California Edison Company and City of Colton

Copies of this filing were served upon the Public Utilities Commission of the State of California and all interested parties.

Comment date: November 19, 1992, in accordance with Standard Paragraph E at the end of this notice.

9. Consumers Power Company

[Docket No. ER93–87–000]

November 6, 1992.

Take notice that on October 30, 1992, Consumers Power Company (Consumers) tendered for filing notice of the City of Holland (Holland) of its desire to extend the term and decrease its reservation level for wholesale service. Under an agreement previously filed with the Commission, there is to be a rate increase during the extended term, effective January 1, 1993.

Copies of the filing were served upon the Michigan Public Service Commission and Holland.

Comment date: November 20, 1992, in accordance with Standard Paragraph E at the end of this notice.

10. Tampa Electric Company

[Docket No. ER93–83–000]

November 6, 1992.

Take notice that on October 30, 1992, Tampa Electric Company (Tampa Electric) tendered for filing a Letter of Commitment providing for the sale of available capacity and energy by Tampa Electric to the Kissimmee Utility Authority (Kissimmee). The Letter of Commitment was tendered as a supplement to Service Schedule J (Negotiated Interchange Service) under the existing agreement for interchange service between Tampa Electric and Kissimmee.

Tampa Electric proposes an effective date of January 1, 1993, for the Letter of Commitment.

Copies of the filing have been served on Kissimmee and the Florida Public Service Commission.

Comment date: November 20, 1992, in accordance with Standard Paragraph E at the end of this notice.

11. New England Power Pool

[Docket No. ER93–84–000]

November 6, 1992.

Take notice that on October 30, 1992, the New England Power Pool (NEPOOL) Executive Committee filed an amendment to the NEPOOL Agreement, dated as of September 15, 1992, (Amendment) which changes provisions of the NEPOOL Agreement (NEPOOL FPC No. 2), dated as of September 1, 1971, as previously amended by the twenty-seven amendments.

The NEPOOL Executive Committee states that the Amendment is intended to decrease the number of members on the pool's Executive Committee from eleven to ten.

Comment date: November 20, 1992, in accordance with Standard Paragraph E at the end of this notice.

12. Idaho Power Company

[Docket No. ER93–89–000]

November 6, 1992.

Take notice that on October 30, 1992, Idaho Power Company (IPC) tendered for filing the Agreement for the Sale and Purchase of Firm Energy executed on August 31, 1992 between Oregon Trail Electric Consumers Cooperative, Inc. and Idaho Power Company. IPC has requested an effective date of January 1, 1993.

Comment date: November 20, 1992, in accordance with Standard Paragraph E at the end of this notice.

13. Consumers Power Company

[Docket No. ER93–88–000]

November 6, 1992.

Take notice that on October 30, 1992, Consumers Power Company (Consumers) tendered for filing a supplemental agreement modifying various provisions of its Coordinated Operating Agreement with the Michigan South Central Power Agency (MSCPA), Consumers' Rate Schedule FERC No. 55 effective January 1, 1993. The supplemental agreement modifies terms or rates related to emergency service, short-term capacity and energy, interchange power, kilovar supply, inadvertent energy and various billing matters.

Copies of the filing were served on the Michigan Public Service Commission and the MSCPA.

Comment date: November 20, 1992, in accordance with Standard Paragraph E at the end of this notice.

14. Century Power Corporation

[Docket No. ER93-92-000]

November 6, 1992.

Take notice that on October 30, 1992, Century Power Corporation (Century) filed (1) a FERC Electric Tariff, Original Volume No. 1, for sales from its entitlement to Unit No. 3 of the San Juan 3 generating station and (2) unexecuted service agreements with other utilities. This filing is made to enable Century to meet any requests by those utilities for short-term power in the umbrella tariff form as suggested by the Commission in Central Maine Power Company, 56 FERC ¶ 61,200, 61,819 (1991).

Comment date: November 20, 1992, in accordance with Standard Paragraph E at the end of this notice.

15. Consumers Power Company

[Docket No. ER93-86-000]

November 6, 1992.

Take notice that on October 30, 1992, Consumers Power Company (Consumers) tendered for filing a Service Agreement with the Michigan Public Power Agency (MPPA) and Wolverine Power Supply Cooperative, Inc. (Wolverine) pursuant to Consumers' Open Access Transmission Service Tariff. The filed Service Agreement extends the availability of transmission service to MPPA and in order to facilitate operation of the Municipal Cooperative Coordinated Pool. A copy of the filing was served upon the MPPA, Wolverine, and the Michigan Public Service Commission.

Comment date: November 20, 1992, in accordance with Standard Paragraph E at the end of this notice.

16. Pacific Gas and Electric Company

[Docket Nos. ER91-505-005 and EL92-18-002]

November 6, 1992.

Take notice that on October 29, 1992, Pacific Gas and Electric Company (PG&E) tendered for filing a compliance refund report to the offer of Partial Settlement and Explanatory Statement between PG&E and Transmission Agency of Northern California (TANC). This compliance refund report summarizes pertinent information concerning PG&E's refund to TANC of rates collected in excess of the rates ultimately accepted by the Commission. The PG&E billed rate was $0.546/kW-month, the Commission accepted a rate of $0.500/kW-month. The difference in these rates resulted in a refund due TANC by PG&E in the amount of $98,615.30 including interest.

The compliance refund report was filed in compliance with a directive in the Commission's September 30, 1992 letter order

Copies of this filing were served upon TANC, the California Public Utilities Commission and all other parties to this proceeding.

Comment date: November 23, 1992, in accordance with Standard Paragraph E at the end of this notice.

17. Connecticut Yankee Atomic Power Company

[Docket No. ER93-85-000]

November 6, 1992.

Take notice that on October 30, 1992, Connecticut Yankee Atomic Power Company (Connecticut Yankee) tendered for filing, pursuant to section 205 of the Federal Power Act and section 35.13 of the Commission's Regulations, proposed changes to the nuclear generating unit decommissioning fund payments to be collected by Connecticut Yankee under its wholesale power contract arrangements with ten New England utilities. Connecticut Yankee states that it is proposing a $309.1 million annual automatic adjustment to the decommissioning cost estimate and purchaser payments to reflect future escalation of decommissioning costs. Connecticut Yankee requests an effective date of January 1, 1993.

Connecticut Yankee states that it is proposing to annually adjust automatically its decommissioning cost estimate, commencing January 1, 1993. The decommissioning expenses accruals will be escalated by the application of the following assumptions to the cost estimate of $309.1 million: (i) Decommissioning collections will extend to the scheduled June 29, 2007 expiration date of the unit's operating license; (ii) the cost to decommission the unit will escalate at an annual rate of 6.5 percent following July 1, 1992; and (iii) the monies held in the decommissioning fund will earn an annual return of 5.35 percent. At the end of each five year period, Connecticut Yankee states that it will review the decommissioning cost escalation and rate of return on decommissioning funds and will modify its schedule of annual decommissioning cost collections to reflect the actual decommissioning cost escalation and rate of return on decommissioning funds.

Connecticut Yankee states that copies of its filing have been provided to its wholesale customers and to state regulatory commissions in Connecticut, Vermont, New Hampshire, Massachusetts, Maine and Rhode Island.

Comment date: November 20, 1992, in accordance with Standard Paragraph E at the end of this notice.

18. Northern States Power Company (Minnesota), Northern States Power Company (Wisconsin)

[Docket No. ER93-101-000]

November 6, 1992.

Take notice that on November 2, 1992, Northern States Power Company (Minnesota) and Northern States Power Company (Wisconsin) jointly tendered for filing the existing Exhibit VII and revised Exhibits VIII and IX to the Agreement to Coordinate Planning and Operations and Interchange Power and Energy Between Northern States Power Company (Minnesota) and Northern States Power Company (Wisconsin).

Exhibit VII sets forth the specification of the rate of return on common equity to determine the overall costs of capital. The return on common equity for calendar year 1993 is the FERC generic rate of return effective November 1, 1991.

Exhibit VII sets forth the specification of average monthly coincident peak demands for calendar year 1993 for each of the Companies. A statement of the impacts of these coincident peak demands on each company has been filed. These coincident peak demands were determined upon three year data consisting of 18 months actual and 18 months projected. The change from the use of the average of the 12 monthly peak demand allocation method to the use of the 36 months was approved in Docket No. ER87-279-000.

Exhibit IX sets forth a specification of depreciation rates certified by the Wisconsin Public Service Commission (PSCW) and the depreciation rates currently proposed to and pending before the Minnesota Public Utilities Commission (MPUC). A statement of the impact of the depreciation rates on each company has been filed.

The NSP Companies request an effective date of January 1, 1993, for this filing. Copies of the filing letter and Exhibits VII, VIII and IX have been served upon the wholesale and wheeling customers of the Companies. Copies of the filing have been mailed to the State Commissions of Michigan, Minnesota, North Dakota, South Dakota and Wisconsin.

Comment date: November 20, 1992, in accordance with Standard Paragraph E at the end of this notice.

19. Northeast Utilities Service Company

[Docket No. ER93-97-000]

November 6, 1992.

Take notice that on October 30, 1992, Northeast Service Company (NUSCO), on behalf of The Connecticut Light and Power Company (CL&P), Western

Massachusetts Electric Company (WMECO), and Holyoke Water Power Company (HWP), tendered for filing an Agreement between CL&P, WMECO, and HWP and Fitchburg Gas and Electric Light Company and Harris Energy & Reality Corporation providing for an extension in service under existing rate schedules.

NUSCO requests that the Commission waive its standard notice periods and filing regulations to the extent necessary to permit the rate schedule change to become effective November 1, 1992.

NUSCO states that copies of this rate schedule have been mailed or delivered to each of the parties.

NUSCO further states that the filing is in accordance with section 35 of the Commission's regulations.

Comment date: November 20, 1992, in accordance with Standard Paragraph E at the end of this notice.

20. Central Power & Light Company

[Docket No. ER93-98-000]

November 6, 1992.

Take notice that on October 30, 1992, Central Power & Light Company (CPL) tendered for filing a Letter Agreement dated October 19, 1992, among CPL, Tex-La Electric Cooperative of Texas, Inc. (Tex-La) and Rayburn Country Electric Cooperative, Inc. (Rayburn). The Letter Agreement provides for extension of October 31, 1991, under which CPL agreed to provide firm transmission service associated with the delivery for the account of Tex-La and Rayburn of seven megawatts of reserved capacity of the Texas Municipal Power Pool for the benefit of Brazos Electric Cooperative, Inc.

CPL requests that the Letter Agreement be made effective as of January 1, 1993, as a supplement to the Agreement (CPL's FERC Rate Schedule No. 87).

Copies of this filing have been served on Tex-La, Rayburn Country and the Public Utility Commission of Texas.

Comment date: November 20, 1992, in accordance with Standard Paragraph E at the end of this notice.

21. Detroit Edison Company

[Docket No. ER93-91-000]

November 6, 1992.

Take notice that on October 30, 1992, Detroit Edison Company (Edison) filed revised tariff sheets applicable to its wholesale services to change rates and make other changes in the terms and conditions of service, all as more fully set forth in the filing. The affected customers are the City of Croswell, Michigan; the Village of Sebewaing, Michigan; Thumb Electric Cooperative, Inc., the City of Detroit, Michigan; and Wolverine Power Supply Cooperative (collectively, "Wholesale Customers"). Edison states that the rates proposed herein produce revenues $2,245,461 less than current firm rates, and that the proposed rates represent a 6.93% decrease from such rates. Edison proposes to have the revised tariff sheets become effective as of November 1, 1992, and accordingly, requests waiver of the Commission's notice requirements for good cause shown.

Edison further states that it is submitting a notice of cancellation of Rate Schedule No. 20 applicable to the Municipal and Cooperative Power Pool.

Edison states that a copy of the application has been served on the Wholesale Customers, the Municipal and Cooperative Pool, and on the Michigan Public Service Commission.

Comment date: November 20, 1992, in accordance with Standard Paragraph E at the end of this notice.

22. Southern California Edison Company

[Docket No. ER93-81-000]

November 6, 1992.

Take notice that on October 30, 1992, Southern California Edison Company (Edison) tendered for filing, as an initial rate schedule, the following agreement, executed on October 14, 1992, by the respective parties:

Edison-Vernon Firm Transmission Service Agreement (Agreement) Between Southern California Edison Company and City of Vernon

On September 3, 1992, Pacific Gas and Electric Company (PG&E) and Vernon agreed to enter into a transmission service exchange agreement whereby PG&E will exchange a portion of its Pacific Direct Current Intertie transmission service for Vernon's California Oregon Transmission Project (COTP) transmission service. In order to implement such exchange Vernon requires transmission service from Edison and therefore Edison agrees to provide firm transmission service to provide scheduling and dispatching services.

Copies of this filing were served upon the Public Utilities Commission of the State of California and all interested parties.

Comment date: November 20, 1992, in accordance with Standard Paragraph E at the end of this notice.

23. Hartwell Energy Limited Partnership

[Docket No. EG93-3-000]

November 6, 1992.

Take notice that on November 2, 1992, Hartwell Energy Limited Partnership (Hartwell) filed an Application under section 32(a)(1) of The Public Utility Holding Company Act of 1935 (PUHCA), as amended by section 711 of the Energy Policy Act of 1992, seeking determination by the Commission that Hartwell is an exempt wholesale generator.

Comment date: November 23, 1992, in accordance with Standard Paragraph E at the end of this notice.

24. Southern California Edison Company

[Docket No. ER93-82-000]

November 9, 1992.

Take notice that on October 30, 1992, Southern California Edison Company (Edison) tendered for filing the following supplemental agreement to the 1990 Integrated Operations Agreement (1990 IOA) approved by the Commission on July 30, 1990 in Docket No. ER81-177-011 (Phase II) and its related firm transmission service agreement with the City of Riverside (Riverside):

Supplemental Agreement Between Southern California Edison Company and The City of Riverside for the Integration of the Deseret 1992 Power Sale Agreement

Edison-Riverside 1992 Deseret Firm Transmission Service Agreement Between Southern California Edison Company and The City of Riverside

Copies of this filing were served upon the Public Utilities Commission of the State of California and all interested parties.

Comment date: November 23, 1992, in accordance with Standard Paragraph E at the end of this notice.

25. Hardee Power Partners Limited

[Docket No. ER93-109-000]

November 9, 1992.

Take notice that Hardee Power Partners Limited (Hardee Power) on November 2, 1992, tendered for filing proposed changes to its FERC Rate Schedule Nos. 1 and 2. The proposed changes would cause a net decrease in revenues from jurisdictional sales and service by approximately $1.4 million based on estimates for the 12 month period ending December 31, 1993.

These changes are made to reflect recovery of certain capital expenditures in connection with the construction of a 295 MW gas-fired generating facility and adjustments to the interest rate for long-term financing for the Facility, located in Hardee and Polk Counties, Florida.

Copies of the filing were served upon Hardee Power's only two wholesale customers.

Comment date: November 23, 1992, in accordance with Standard Paragraph E at the end of this notice.

26. West Texas Utilities Company

[Docket No. ER93-100-000]

November 9, 1992.

Take notice that on November 2, 1992, West Texas Utilities Company (WTU) tendered for filing a Letter Agreement dated October 26, 1992, among WTU, Tex-La Electric Cooperative of Texas, Inc. (Tex-La) and Rayburn Country Electric Cooperative, Inc. (Rayburn). The Letter Agreement provides for extension of the term of an Agreement for Firm Transmission Service dated as of October 31, 1991, under which WTU agreed to provide firm transmission service associated with the delivery for the account of Tex-La and Rayburn of seven megawatts of reserved capacity from South Texas Electric Cooperative, Inc. to the control area of the Texas Municipal Power Pool for the benefit of Brazos Electric Cooperative, Inc.

WTU requests that the Letter Agreement be made effective as of January 1, 1993, as a supplement to the Agreement (WTU's FERC Rate Schedule No. 63).

Copies of this filing have been served on Tex-La, Rayburn Country and the Public Utility Commission of Texas.

Comment date: November 23, 1992, in accordance with Standard Paragraph E at the end of this notice.

27. Pennsylvania Power & Light Company

[Docket No. ER93-107-000]

November 9, 1992.

Take notice that Pennsylvania Power & Light Company (PP&L) on November 3, 1992, tendered for filing an executed agreement dated as of October 12, 1992 (First Supplemental Agreement), between PP&L and Orange and Rockland Utilities, Inc. (O&R). PP&L and O&R are parties to the Electric Output Sales Agreement between PP&L and O&R dated as of March 14, 1990 (Agreement), on file with the Commission as Rate Schedule No. 77. At present, the Agreement provides that O&R may reserve capability and energy from PP&L's Martins Creek Units 3 and 4. PP&L states that the First Supplemental Agreement provides for the addition of PP&L's Martins Creek Units 1 and 2 to the PP&L generating units from which O&R may reserve capability and energy.

PP&L requests waiver of the notice requirements of section 205 of the Federal Power Act and section 35.3 of the Commission's Regulations so that the proposed rate schedule can be made effective as of November 4, 1992. Initial service under the First Supplemental Agreement will not begin before the requested effective date.

PP&L states that a copy of its filing was served on O&R, the Pennsylvania Public Utility Commission and the New York Public Service Commission.

Comment date: November 23, 1992, in accordance with Standard Paragraph E at the end of this notice.

28. Western Massachusetts Electric Company

[Docket No. ER93-111-000]

November 9, 1992.

Take notice that on November 5, 1992, Fletcher Electric Light Company, Inc. (FELCO) tendered for filing a Notice of Termination of full requirements service from Western Massachusetts Electric Company (WMECO) under WMECO FERC Rate Schedule 2F, effective October 27, 1992.

FELCO states that this termination is required due to FELCO's transfer of its electric distribution system assets to The Connecticut Light and Power Company.

FELCO requests that the Commission waive its filing requirements to the extent necessary to permit the termination of this rate schedule to become effective as of October 27, 1992.

FELCO states that a copy of the termination notice has been mailed to WMECO.

FELCO further states that the filing is in accordance with 18 F.C.F. 35.15.

Comment date: November 23, 1992, in accordance with Standard Paragraph E at the end of this notice.

29. Montaup Electric Company

[Docket No. ER93-106-000]

November 9, 1992.

Take notice that on November 3, 1992, Montaup Electric Company (Montaup or the Company) tendered for filing copies of rate schedule revision to provide for the flow through of tax benefits associated with oil conservation expenditures. This filing is being made in accordance with the terms of the Oil Conservation Adjustment contained in the settlement approved by the Commission in Docket No. ER83-112-000 and ER83-136-000. Also included with the filing as Attachment A is a table displaying the estimated total tax benefit to be derived over the 1992 through 2001 period related to the OCA accounting transactions; and Attachment B which shows the monthly amounts of those credits as presently estimated.

Comment date: November 23, 1992, in accordance with Standard Paragraph E at the end of this notice.

30. Ruth G. Shaw

[Docket No. ID-2754-000]

November 9, 1992.

Take notice that on November 2, 1992, Ruth G. Shaw (Applicant) tendered for filing an application pursuant to section 305(b) of the Federal Power Act to hold the following positions:

Vice President, Corporate Communications—Duke Power Company

Director—First Union Corporation

Comment date: November 25, 1992, in accordance with Standard Paragraph E at the end of this notice.

31. E. James Ferland

[Docket No. ID-1897-004]

November 9, 1992.

Take notice that on November 3, 1992, E. James Ferland (Applicant) tendered for filing an application under section 305(b) of the Federal Power Act to hold the following positions:

Chairman of the Board, President, Chief Executive Officer and Director—Public Service Enterprise Group Incorporated

Chairman of the Board, Chief Executive Officer and Director—Public Service Electric and Gas Company

Director—Foster Wheeler Corporation

Comment date: November 25, 1992, in accordance with Standard Paragraph E at the end of this notice.

32. Washington Water Power Company

[Docket No. ER93-105-000]

November 9, 1992.

Take notice that on November 2, 1992, The Washington Water Power Company (WWP), tendered for filing for itself and on behalf of PacifiCorp with the Federal Energy Regulatory Commission pursuant to 18 CFR 35.13 a Transmission Service Agreement (Transmission Agreement) and a Transmission and Interconnection Agreement (Interconnection Agreement) between the Washington Water Power Company and PacifiCorp. The Transmission Agreement supersedes the existing agreement providing for transfer of power and energy by WWP to PacifiCorp's Bonner County (Idaho) electric distribution system under Supplement No. 4 to WWP Rate Schedule FERC Number 125. WWP states that this rate schedule is available for transmission wheeling service provided only to PacifiCorp. The Interconnection Agreement provides for electrical support to PacifiCorp's Pomeroy, Washington area loads.

Comment date: November 23, 1992, in accordance with Standard Paragraph E at the end of this notice.

33. Green Mountain Power Corporation

[Docket No. ER92-330-004]

November 9, 1992.

Take notice that on October 28, 1992, Green Mountain Power Corporation (Green Mountain) tendered for filing its compliance refund report in the above-referenced docket.

Comment date: November 23, 1992, in accordance with Standard Paragraph E at the end of this notice.

34. The Cincinnati Gas & Electric Company

[Docket No. ER92-804-000]

November 9, 1992.

Take notice that on November 4, 1992, The Cincinnati Gas & Electric Company (CG&E), in response to a request by the Commission Staff, submitted an amendment to its filing to clarify the charges and services to be provided under the Facility Agreement, dated as of May 1, 1992, between CG&E and Ohio Valley Electric Corporation (OVEC). CG&E and OVEC request that the Facility Agreement be made effective on October 27, 1992, sixty days following the original submission of the Facility Agreement.

Copies of the filing of supplemental information were served on the Public Service Commission of Kentucky, the Ohio Public Utilities Commission and the Utility Regulatory Commission of Indiana.

Comment date: November 23, 1992, in accordance with Standard Paragraph E at the end of this notice.

35. New England Power Company Northeast Utilities Service Company

[Docket Nos. ER92-764-002 and ER92-766-000]

November 9, 1992.

Take notice that on November 2, 1992, New England Power Company (NEP) tendered for filing its FERC Electric Tariff, Original Volume No. 7, reformed to comply with the Commission's October 2, 1992 Order in these dockets.

Comment date: November 23, 1992, in accordance with Standard Paragraph E at the end of this notice.

36. Northeast Utilities Service Company

[Docket No. ER92-727-001]

November 9, 1992.

Take notice that on October 30, 1992, Northeast Utilities Service Company, on behalf of The Connecticut Light & Power Company, rendered for filing its compliance filing and refund report with the Commission in this docket pursuant to the Director's September 30, 1992 order.

Comment date: November 23, 1992, in accordance with Standard Paragraph E at the end of this notice.

37. Northeast Utilities Service Company

[Docket No. ER92-766-002]

November 9, 1992.

Take notice that on November 2, 1992, Northeast Utilities Service Company (NU) tendered for filing revisions to its Transmission Tariff No. 4 and a filing fee of $3,800.00 in compliance with the Commission's October 2, 1992 Order Noting and Granting Interventions, Granting and Denying Motions for Summary Dispositions, etc., in the above-captioned docket and in New England Power Company's Docket No. ER92-764-000. NU's original tariff was filed on August 4, 1992 to make available 440 MW of long-term firm transmission service across the Public Service Company of New Hampshire system for between 8 and 28 years.

Copies of the filing have been served by first-class mail upon all parties on the official service list compiled by the Secretary in this proceeding.

Comment date: November 23, 1992, in accordance with Standard Paragraph E at the end of this notice.

38. Central Illinois Public Service Company

[Docket No. ER93-108-000]

November 9, 1992.

Take notice that on November 3, 1992, Central Illinois Public Service Company (CIPS) tendered for filing appendices E, F and G, dated December 8, 1989, and appendix H, dated March 1, 1992, to the Interconnection Agreement dated May 19, 1983 and designated as Rate Schedule No. 85. The May 19, 1983, Interconnection Agreement is between CIPS and Southern Illinois Power Cooperative (SIPC). CIPS explains that the four Appendices provide additional interconnections between CIPS and SIPC for use in emergency situations only. CIPS requests an effective date of December 8, 1989 for appendices E, F, and G and an effective date of March 1, 1991 for appendix H. Accordingly, CIPS requests a waiver of the Commission's notice requests.

Copies of the filing have been served on SIPC and the Illinois Commerce Commission.

Comment date: November 23, 1992, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 92-27869 Filed 11-17-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. CP93-40-000, et al.]

Natural Gas Pipeline Company of America, et al.; Natural Gas Certificate Filings

Take notice that the following filings have been made with the Commission:

1. Natural Gas Pipeline Company of America

[Docket No. CP93-40-000]

November 5, 1992.

Take notice that on October 30, 1992, Natural Gas Pipeline Company of America (Natural), 701 East 22nd Street, Lombard, Illinois, 60148, filed in Docket No. CP93-40-000 a request pursuant to sections 157.205 and 157.212 of the Commission's Regulations under the Natural Gas Act, for authority to add a new sales delivery point in Cook County, Illinois, for the account of North Shore Gas Company (North Shore), all as more fully set forth in the request on file with the Commission and open to public inspection.

Natural indicates that the new delivery point to North Shore (an existing DMQ-1 customer) will allow for Natural to reassign a volume of sales gas to that point by shifting the gas volume from its sales receipt point at Grayslake in Lake County, Illinois. Natural further contends that no new or modified facilities will be required, nor will there be any increase in North Shore's total contracted sales level. The proposed point will be located at an existing transportation delivery point (Tonne Road Point) to North Shore, in Cook County, as stated by Natural.

Comment date: December 21, 1992, in accordance with Standard Paragraph G at the end of this notice.

2. Columbia Gas Transmission Corporation

[Docket No. CP93–32–000]

November 5, 1992.

Take notice that on October 27, 1992, Columbia Gas Transmission Corporation (Columbia) 1700 MacCorkle Avenue, SE, Charleston, West Virginia 25314, filed in Docket No. CP93–32–000, a request pursuant to Sections 157.205 and 157.212 (18 CFR sections 157.205 and 157.212) of the Commission's Regulations Under the Natural Gas Act and Columbia's authorization in Docket No. CP83–76–000, to construct and operate additional points of delivery for existing wholesale customers, all as more fully set forth in the request on file with the Commission and open to public inspection.

It is stated that Columbia would construct and operate the facilities necessary to provide seventeen additional points of delivery, as follows:

Wholesale customers	Commercial	Residential	Industrial	Estimated annual volumes Dth
Columbia Gas of Kentucky, Inc.		2		300
Columbia Gas of Ohio Inc.	3	4		4,675
Columbia Gas of Pennsylvania, Inc.		1		150
Mountaineer Gas Company	1			15,801
Ohio Cumberland Gas Company			1	328,500
Waterville Gas and Oil Company		3		410
West Ohio Gas Company		1	1	2,001,095

It is also stated that the additional points of delivery have been requested by Columbia's wholesale customers for residential, commercial and industrial service. The quantities to be provided through the new delivery points would be within Columbia's currently authorized level of service and would be within existing peak day and annual entitlement nominations of such customers. The sales to be made through the proposed points of delivery would be under Columbia's currently effective Service Agreements with such customers under Rate Schedules CDS and SGS.

Comment date: December 21, 1992, in accordance with Standard Paragraph G at the end of this notice.

3. Columbia Gas Transmission Corporation

[Docket No. CP93–48–000]

November 5, 1992.

Take notice that on November 2, 1992, Columbia Gas Transmission Corporation (Columbia), 1700 MacCorkle Avenue, SE., Charleston, West Virginia 25314, filed in Docket No. CP93–48–000 an application pursuant to Section 7(c) of the Natural Gas Act for authorization to replace approximately 12.3 miles of pipe on Line 1278 in Northampton County, Pennsylvania, with larger pipe, all as more fully set forth in the application on file with the Commission and open to public inspection.

Columbia proposes to construct and operate approximately 13.1 miles of 20-inch pipeline in two segments, which would replace a total of approximately 12.3 miles of bare 10-inch, 14-inch, and 20-inch pipeline. Columbia proposes to construct the first segment (8.2 miles) in 1993, and the second segment (4.9 miles, involves crossing the Lehigh River) in 1994. Columbia states that the replacements are required due to the age and condition of the pipe, and because the pipeline is located in an area that is steadily growing in population and suburban development. Columbia advises that replacing the pipe with larger 20-inch pipe is consistent with its long-range plans for replacement of these and future segments of this pipeline system north of the Hellertown, Pennsylvania, regulator station. Columbia explains that, *inter alia,* the 20-inch pipe would reduce horsepower requirements at the downstream Easton Compressor Station as well as provide additional line pack, both of which would enhance the reliability and efficiency of Columbia's transmission pipeline system in this area. Columbia estimates that the cost of the proposed construction would be $19,540,000 which would be financed from internally generated funds.

Comment date: November 27, 1992, in accordance with Standard Paragraph F at the end of this notice.

4. CNG Transmission Corporation

[Docket No. CP93–34–000]

November 5, 1992.

Take notice that on October 28, 1992, CNG Transmission Corporation (CNG), 445 West Main Street, Clarksburg, West Virginia 26301, filed in Docket No. CP93–34–000 an application pursuant to sections 7(b) and 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing it to abandon and rearrange certain pipeline facilities within the Fink/Kennedy Storage Pool in north central West Virginia, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Specifically, CNG proposes to abandon and remove its TL–295 pipeline which extends from Burnside Junction to Sweeney Junction and its TL–328 pipeline which extends from Burnside Junction to Kennedy Junction. CNG states the pipelines are bare-metal pipelines which were installed in 1951 and 1953, respectively.

CNG asserts that its existing TL–344 pipeline, which parallels the pipelines to be abandoned, has ample capacity to handle all of the existing operations within the Fink/Kennedy Storage Pool.

CNG states that it would rearrange the 25 storage-well lines which now connect into the TL–295 pipeline by connecting them into the TL–344 pipeline.

The estimated cost of the abandonment, rearrangement and consolidation of these facilities, including the Commission's filing fees, is $972,000, it is stated.

CNG states that the abandonment, rearrangement and consolidation of the various pipelines within the Fink/Kennedy Storage Pool would improve the safety, reliability and flexibility of the storage operation and would have no effect on the service to any customer or certificated capacity of the storage field.

Comment date: November 27, 1992, in accordance with Standard Paragraph F at the end of the notice.

5. CNG Transmission Corporation

[Docket No. CP93–35–000]

November 5, 1992.

Take notice that on October 28, 1992, CNG Transmission Corporation (CNG), 445 West Main Street, Clarksburg, West Virginia 26301, filed in Docket No. CP93–

35–000 an application pursuant to section 7 of the Natural Gas Act for a certificate of public convenience and necessity authorizing it to replace approximately 0.85 mile of its existing Lines 25 and 35 pipeline system in Butler County, Pennsylvania, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

CNG states that it proposes to replace this short mainline segment, of two 20-inch parallel pipelines, with a single 30-inch pipeline. According to CNG, Department of Transportation (DOT) regulations at 49 CFR part 192 require this replacement due to the increase in population density along this segment of Lines 25 and 35. It is indicated that to maintain compliance with DOT regulations, CNG must (1) replace the old pipe with new higher grade steel pipe, in order to continue to operate this segment at its current rates pressure (850 psig), or (2) lower the maximum allowable operating pressure (MAOP) of the existing pipelines (to 657 psig). CNG maintains that the second option is unacceptable to CNG because it would adversely affect service to customers.

CNG states that in this area (Cranberry Township, Butler County, Pennsylvania), CNG's Lines 25 and 35 still function as mainline transmission facilities. CNG further states that it plans to excavate and remove Line 25 and place the new 30-inch pipeline in the same ditch. CNG says it plans to leave Line 35 in the ground, but remove it from mainline service between Stull Gate, near Glen Eden Road, and a new gate junction to be installed near Bear Run Road. CNG indicates it would keep Line 35 in service but operate it at a lower MAOP (500 psig) permitted under the DOT's regulations. Keeping this 0.85 mile segment of Line 35 in low-pressure service will benefit the rapidly growing residential and commercial markets in the northern suburbs of Pittsburgh, Pennsylvania. It is stated that the 0.85 miles of 30-inch, TL–469 Extension 1, would replace the mainline transmission function of CNG's Lines 25 and 35 in this area. Thus, CNG requests certificate authority to (1) abandon and remove Line 25, (2) install TL–469 Extension 1 in its place, and (3) retain Line 35 for low-pressure service to the northern suburbs of Pittsburgh, Pennsylvania.

The estimated cost of the construction of these replacement facilities, including the Commission's filing fees, would be $1,313,000, as shown in CNG's application.

Construction of the replacement facilities identified in this application would, according to CNG, enable CNG to maintain reliable and flexible service.

Comment date: November 27, 1992, in accordance with Standard Paragraph F at the end of this notice.

6. East Tennessee Natural Gas Company

[Docket No. CP93–50–000]

November 6, 1992.

Take notice that on November 4, 1992, East Tennessee Natural Gas Company (East Tennessee), P.O. Box 2511, Houston, Texas 77252, filed in Docket No. CP93–50–000 a request pursuant to Section 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205), for authorization to modify an existing meter station for Virginia Gas Company (Virginia Gas) under the certificate issued to East Tennessee in Docket No. CP82–412–000, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

East Tennessee proposes to rearrange an existing meter station in Washington County, Virginia, by permanently rearranging the station piping in order to allow for bi-directional flow of gas to Virginia Gas. It is stated that all modifications will be made on an exiting right-of-way and would pose no new operational problem for East Tennessee.

It is stated that East Tennessee will continue to own, operate and maintain these facilities. It is further stated that the estimated cost of the meter tube modification is $59,000 which is 100 percent reimbursable to East Tennessee.

East Tennessee states that it will transport up to 3,000 Mcf of natural gas per day for Virginia gas pursuant to a January 1, 1992 agreement and section 284.223 of the Regulations.

Comment date: December 21, 1992, in accordance with Standard Paragraph G at the end of this notice.

7. Southern Natural Gas Company

[Docket No. CP93–37–000]

November 6, 1992.

Take notice that on October 29, 1992, Southern Natural Gas Company (Southern), Post Office Box 2563, Birmingham, Alabama 35202, filed in Docket No. CP93–37–000 an application pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon partially sales of natural gas to the City of LaFayette, Alabama (LaFayette), the City of Camp Hill, Alabama (Camp Hill), and United Cities Gas Company (United Cities), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Southern proposes to abandon the sale to the three customers by reducing their respective Maximum Daily Obligation (MDO). Southern proposes to abandon the sale of 132 Mcf of natural gas per day to LaFayette, reducing its MDO from the currently authorized level of 1,682 Mcf to 1,550 Mcf. Southern proposes to abandon the sale of 135 Mcf per day to Camp Hill, reducing its MDO from the currently authorized level of 585 Mcf to 450 Mcf. Southern proposes to abandon the sale of 5,000 Mcf per day to United Cities, reducing its MDO from the currently authorized level of 20,000 Mcf to 15,000 Mcf. It is stated that Southern requests effective dates for the abandonments of October 1, 1992, for LaFayette and Camp Hill and November 1, 1992, for United Cities. It is asserted that the abandonments have been requested by the 3 customers. It is further asserted that the abandonments will not interfere with Southern's ability to meet its peak day obligations for sales and transportation.

No facilities are proposed to be abandoned.

Comment date: November 27, 1992, in accordance with Standard Paragraph F at the end of the notice.

8. Southern Natural Gas Company

[Docket No. CP93–38–000]

November 6, 1992.

Take notice that on October 29, 1992, Southern Natural Gas Company (Southern), Post Office Box 2563, Birmingham, Alabama 35202, filed in Docket No. CP93–38–000 an application pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon sales of natural gas to the Gas Board of the City of Fayette, Alabama (Fayette), and the Lamar County Gas District (Lamar), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Southern proposes to abandon the sale of 2,000 Mcf of natural gas per day to Fayette and 1,488 Mcf of natural gas per day to Lamar. It is stated that Southern requests an effective date for the abandonments of October 1, 1992. It is asserted that the abandonments have been requested by both customers. It is further asserted that the abandonments will not interfere with Southern's ability to meet its peak day obligations for sales and transportation. It is explained that no facilities are proposed for abandonment.

Comment date: November 27, 1992, in accordance with Standard Paragraph F at the end of this notice.

9. Texas Eastern Transmission Corporation

[Docket No. CP93–39–000]

November 6, 1992.

Take notice that on October 28, 1992, Texas Eastern Transmission Corporation (Texas Eastern), 5400 Westheimer Court, Houston, Texas 77056–5310, filed pursuant to section 7(c) of the Natural Gas Act (NGA), as amended and section 157.7 of the Commission's Regulations under the NGA, an application in Docket No. CP93–39–000, for an amendment to a Certificate of Public Convenience and Necessity issued by the Commission on June 5, 1990, (51 FERC ¶61,267) to allow shippers under Texas Eastern's Rate Schedule FTS–5 to utilize two points of receipt in addition to those currently authorized, on a best efforts basis, in order for such shippers to utilize to the maximum extent possible storage service provided by CNG Transmission Corporation (CNG) pursuant to its Rate Schedule GSS–II, all as more fully set forth in the application on file with the Commission and open to public inspection.

By this application, Texas Eastern seeks limited term authorization to add two existing points of interconnection with CNG at Crayne Farm and Oakford as receipt points to the service agreements for the Rate Schedule FTS–5 Phase II and III customers. Texas Eastern specifically seeks the following authorizations:

(1) To add the following existing interconnects with CNG as points of receipt to Rate Schedule FTS–5 Phases II and III service agreements and to allow limited term, best efforts receipts of gas at such points on off-peak days for the period beginning November 15, 1992, and ending March 31, 1993:

(a) Crayne Farm Meter Station No. 037 located in Green County, Pennsylvania.

(b) Oakford Meter Station No. 082 located in Westmoreland County, Pennsylvania.

(2) Such other authorizations as may be required to allow CNG to deliver storage quantities to Texas Eastern at the points described above and to allow Texas Eastern to add the points of receipt specified in (1) above to Rate Schedule FTS–5 Phases II and III shippers' service agreements to permit Texas Eastern to receive gas under Rate Schedule FTS–5 at such points as described herein.

Texas Eastern has been requested by CNG to add these additional receipt points, which are existing interconnections between CNG and Texas Eastern, to the Rate Schedule FTS–5 Phases II and III service agreements. CNG has not made a filing with the Commission with regard to this application.

Texas Eastern indicates that CNG, in a tariff filing in Docket No. CP87–5–025 filed on March 31, 1992, recognized a potential problem which necessitates the authorizations requested herein. Specifically, in that tariff filing, CNG expressed concern that it may not be able to fill the North Summit Storage Pool to its certificated capacity during the 1992 injection season due in part to greater water encroachment than anticipated into the North Summit field during the decades that it was used for production. However, CNG stated that once the pool is dried out, it would be capable of operating at certificated levels.

Further, CNG stated that despite this problem, the North Summit Storage Pool will be able to perform a substantial portion, if not all, of the contracted storage services. However, CNG stated that this depends on the amount of gas the customers choose to store in the pool during this current injection season (April 1, 1992 through October 31, 1992). If the customers choose to store more gas in North Summit than can physically be injected due to the water problem, then CNG would provide storage in CNG's other storage pools. Thus, in the worst case, CNG stated in the tariff filing that it would use the North Summit pools for peaking services and use the other pools for non-peak seasonal storage deliveries.

Texas Eastern, in recognition of CNG's operational situation and the need of Texas Eastern's Rate Schedule FTS–5 shippers to utilize CNG's GSS–II storage services, has agreed to use the additional receipt points for Rate Schedule FTS–5 Phase II and III service, on a best efforts basis on off-peak days, for a limited term from November 15, 1992, through March 31, 1993.

Texas Eastern requests expedited consideration and approval of this application under the shortened hearing procedure of section 385.802 of the Commission's Rules of Practice and Procedures so that Rate Schedule FTS–5 shippers may utilize their CNG storage to the maximum extent possible during the 1992–1993 winter heating season.

Comment date: November 27, 1992, in accordance with Standard Paragraph F at the end of this notice.

10. ANR Pipeline Company and Colorado Interstate Gas Company

[Docket No. CP93–27–000]

November 6, 1992.

Take notice that on October 23, 1992, ANR Pipeline Company (ANR), 500 Renaissance Center, Detroit, Michigan 48243, and Colorado Interstate Gas Company (CIG), P.O. Box 1087, Colorado Springs, Colorado 80944, filed as joint applicants (Applicants) in Docket No. CP93–27–000 for application pursuant to section 7(c) of the Natural Gas Act for certificate authorization to implement the rate case settlement authorized in Docket Nos. RP90–69, *et al.*,[1] all as more fully set forth in the application on file with the Commission and open to public inspection.

Applicants state that they are parties to a gas transportation and exchange agreement dated July 20, 1979, as amended, which provides for systemwide transportation and exchange of natural gas by ANR for CIG and by CIG for ANR, which agreement was certificated November 16, 1979, in Docket No. CP78–99, *et al.* (9 FERC ¶62,100). Applicants further state that contested issues regarding the provisions of that agreement, as resolved in the settlement approved in Docket No. RP90–69, *et al.*, have caused the parties to execute a July 2, 1991, amendment to the agreement, which includes, *inter alia*, new transportation rates for ANR and CIG, and reduction in contract quantities for ANR. Applicants state that the agreement is on file as ANR's Rate Schedule X–86 and as CIG's Rate Schedule X–35.

Comment date: November 27, 1992, in accordance with Standard Paragraph F at the end of this notice.

11. K N Gas Gathering, Inc.

[Docket No. CP93–42–000]

November 9, 1992.

Take notice that on November 2, 1992, K N Gas Gathering, Inc. (KNGG), P.O. Box 281304, Lakewood, Colorado 80228–8304, filed a petition for declaratory order in Docket No. CP93–42–000, requesting that the Commission declare that facilities to be acquired by KNGG from K N Energy, Inc. (K N) are gathering facilities exempt from the Commission's Regulations pursuant to section 1(b) of the Natural Gas Act (NGA), all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

KNGG states that K N is concurrently seeking in Docket No. CP93–41–000, among other things, to abandon what it characterized as its certificated gathering facilities comprising a portion of the facilities to be conveyed to K N. It is stated that the systems that KNGG seeks to acquire can be divided into

[1] See order issued in Docket Nos. RP87–30–036, *et al.*, on August 5, 1991 (56 FERC ¶61,212).

thirty-five separate gathering systems located in Colorado, Kansas, Nebraska, Texas, Oklahoma, and Wyoming, and the Scott City Processing Plant in Scott County, Kansas. It is indicated these systems with few exceptions (1) operate at low pressure (2) consist of short, small diameter pipe, between 2-inch and 10-inch in diameter; (3) are spider web in appearance; and (4) are located behind front-end compression which delivers gas to K N's interstate transmission system. KNGG states that some of these facilities have been certificated without regard as to whether the facilities actually qualify as gathering facilities. It is indicated that the facilities as of August 31, 1992, had a net book value of $27,305,595.

KNGG avers that the requested disclaimer is warranted because all of the facilities KNGG seeks to acquire fit squarely within the gathering and production exemption under section 1(b) of the Natural Gas Act. KNGG also indicates that the disclaimer would be consistent with recent Commission precedent defining what facilities qualify for the section 1(b) gathering exemption. KNGG also states that it has included in its petition an analysis including maps explaining how each of the thirty-five facilities qualifies as a gathering facility. KNGG also avers that its gathering operations will not be performed in connection with any sales or transmission of natural gas in interstate commerce. In addition, KNGG also argues that if the Commission determines that it has jurisdiction over KNGG's gathering rates, it should exercise its discretion not to assert such jurisdiction.

Comment date: November 30, 1992, in accordance with the first subparagraph of Standard Paragraph F at the end of this notice.

12. K N Energy, Inc. and K N Interstate Gas Transmission Co.

[Docket No. CP93–41–000]

November 9, 1992.

Take notice that on November 2, 1992, K N Energy, Inc. (K N) and K N Interstate Gas Transmission Co (KNI), both located at P.O. Box 281304, Lakewood, Colorado 80228, filed a joint application pursuant to sections 7(b) and 7(c) of the Natural Gas Act for an order permitting and approving the abandonment of facilities and services by K N and for a certificate of public convenience and necessity authorizing the acquisition, ownership and operation of jurisdictional facilities and the transportation, storage and sale for resale of natural gas in interstate commerce by KNI, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

K N and KNI request the Commission to (1) authorize K N to abandon, by transfer to K N Gas Gathering, Inc., all but one of its non-jurisdictional gathering systems; (2) authorize K N to abandon, by transfer to KNI, its jurisdictional transmission facilities and a single gathering system located in Montana; (3) authorize K N to abandon certain rural distribution laterals which have historically been classified as transmission facilities, disclaim jurisdiction over those lines and find that they are distribution facilities exempt from Commission regulation pursuant to section 1(b) of the Natural Gas Act; and (4) issue a certificate of public convenience and necessity authorizing KNI to acquire, own and operate K N's jurisdictional facilities and to provide jurisdictional sales, transportation and storage services using those facilities.

Comment date: November 30, 1992, in accordance with Standard Paragraph F at the end of the notice.

13. Equitrans, Inc.

[Docket No. CP93–44–000]

November 9, 1992.

Take notice that on November 2, 1992, Equitrans, Inc. (Equitrans), 3500 Park Lane, Pittsburgh, Pennsylvania 15275, filed in Docket No. CP93–44–000 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the operation of two compressing engines, with a capacity of 1,350 BHP each, and appurtenant facilities, all located at the Copley Run Compressing Station, Courthouse District, Lewis County, West Virginia, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Equitrans states that it has installed the two compressing engines in order to test and develop the underground storage reservoirs connected to the Copley Run Compressing Station under Equitrans' automatic authorization authority granted under section 157.215 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.215). Equitrans further states that the test results show increased deliverability of 15,000 Mcf per day at maximum inventory.

Also, Equitrans states that on April 1, 1993, the commencement of the next injection season, it proposes to render additional storage service of 15,000 Mcf per day using these compressors. Equitrans proposes that the recipients of the service be determined in its Order No. 636 proceeding and that the part 284 storage service rate schedules, to be established in that proceeding, be utilized to render the proposed service. Equitrans further proposes that the applicable rates and cost of service after July 1, 1993, be determined in its next rate case application, which is expected to become effective on that date.

Finally, Equitrans states that it has received requests for additional storage service in an "open season" solicitation which exceeds the increased deliverability that would be provided by the two subject compressors.

Since no construction of facilities would be involved, Equitrans indicates that approval of the application would not have any significant impact on the quality of the human environment. Also, Equitrans indicates that approval of the application would increase operational flexibility and reliability.

Comment date: November 30, 1992, in accordance with Standard Paragraph F at the end of this notice.

Standard Paragraphs

F. Any person desiring to be heard or make any protest with reference to said file with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., 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 385.211 and 385.214) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this filing if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion

for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for the applicant to appear or be represented at the hearing.

G. Any person or the Commission's staff may, within 45 days after the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 92-27870 Filed 11-17-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RS92-69-000]

El Paso Natural Gas Co.; Pre-Filing Conference

November 10, 1992.

Take notice that on Wednesday, November 18, 1992, a pre-filing conference will be convened in the captioned docket to discuss El Paso Natural Gas Company's summary of its proposed plan for implementation of Order No. 636. The conference will be held in a hearing or conference room of the Federal Energy Regulatory Commission, at 810 First Street NE., Washington, DC. The conference will begin at 10 a.m. All interested persons are invited to attend. Attendance at the conference, however, will not confer party status. For additional information, interested parties can call Lisa T. Long at (202) 208-2105.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 92-27867 Filed 11-17-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP93-19-000]

Arizona Public Service Co., Phelps Dodge Corp., Salt River Project Agricultural Improvement and Power District v. El Paso Natural Gas Co.; Petition for Complaint

November 12, 1992.

Take notice that on November 3, 1992, Arizona Public Service Company (APS), Phelps Dodge Corporation and Salt River Project Agricultural Improvement and Power District (Salt River Project) (jointly referred to as complainants) tendered for filing a petition of complaints against El Paso Natural Gas Company (El Paso) for violations of the Natural Gas Act, Commission regulations, Commission policy and El Paso's approved "Global Settlement" in Docket Nos. RP88-44-000, *et al.*

The Complainants argue that El Paso has unreasonably and persistently refused to honor Complainants' valid requests as East of California (EOC) full requirements customers for additional delivery taps under their respective full requirements firm transportation service agreements while continuing to grant such requests for other similarly situated customers. Complainants states that El Paso's denial of their requests for additional delivery points is unduly discriminatory and in violation of sections 4 and 5 of the NGA as well as the express terms of the Global Settlement approved in *El Paso Natural Gas Company*, Docket No. RP88-44-000, *et al.*

Complainants argues that El Paso's EOC full requirements customers may elect to convert their firm sales entitlements to either firm full requirements transportation service or contract demand transportation service, or a combination of both. Complainants states that they are all firm sales customers of El Paso who converted to full requirements transportation service in accordance with the terms of the Global Settlement. To effectuate their conversion, each of the Complainants negotiated and executed long term firm transportation service agreements (TSA) with El Paso following the filing of the Global Settlement. TSAs expressly provide for the firm transportation of Complainants' full requirements of natural gas.

The Complainants respectfully request that the Commission issue an order directing El Paso to cease such undue discrimination on its pipeline system and, specifically, to honor the requests by the complainants for additional delivery points under their respective full requirements transportation service agreements.

Any person desiring to be heard or to protect said complaint should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure 18 CFR 385.214, 385.211. All such motions or protests should be filed on or before December 14, 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. El Paso's answer to this complaint shall be due on or before December 14, 1992.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 92-27975 Filed 11-17-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP88-44-038]

El Paso Natural Gas Co.; Compliance Filing

November 12, 1992.

Take notice that on November 6, 1992, El Paso Natural Gas Company ("El Paso") filed pursuant to part 154 of the Federal Energy Regulatory Commission ("Commission") Regulations Under the Natural Gas Act and in compliance with the Commission's orders issued September 25, 1992 at Docket No. RP88-44-023, October 9, 1992 at Docket No. RP88-44-020, and November 3, 1992 at Docket No. RP88-44-019, *et al.*, certain tariff sheets to its FERC Gas Tariff, First Revised Volume No. 1-A and Second Revised Volume No. 1.

El Paso states that in compliance with ordering paragraph (C) of the Commission's order issued October 9, 1992 at Docket No. RP88-44-020 El Paso filed revised tariff sheets (i) clarifying the circumstances when its unauthorized overpull penalty provision will apply; and (ii) providing, upon the effectiveness of the order, that if El Paso agrees to provide its market affiliate a discontinued mainline transportation rate, or if El Paso discounts its mainline transportation rate in connection with the negotiation of a sales agreement for its sales gas, El Paso will make such discounted rate available to similarly situated Shippers.

El Paso states that the Commission's order issued September 25, 1992 at Docket No. RP88-44-023 granted in part

and denied in part El Paso's request for rehearing of the October 30, 1991 order. The September 25, 1992 order, directs El Paso to refile its tariff § 11.4(b) to reflect that the warranted supply limitation applies to the shedding of electric load, but does not apply to the uses protected under § 281.204(c)(1) of the Commission's Regulations. In compliance with the Commission's directive, El Paso tendered a new § 11.4(b)(iii) stating that El Paso will grant relief from the supply allocation procedure as necessary to prevent the shedding of electric load with respect to any customer to whom El Paso has a warranted supply obligation and has removed the reference to shedding of electric load in § 11.4(b)(i).

El Paso states that in compliance with ordering paragraph (C) of the Commission's order issued November 3, 1992, at Docket No. RP88–44–019, *et al.*, El Paso filed revised tariff sheets:

(i) To permit customers acquiring additional gas under curtailment relief provisions to compensate El Paso for the commodity cost of gas at the price provided in the contract;

(ii) To clarify that the Most Favored Nation pricing option may be exercised whenever El Paso gives notice that it has executed a new qualifying non-exempt customer's contract and to delete any further restrictions;

(iii) To clarify with respect to production area charges that a Shipper may have subsequent tests conducted any time after its gas fails the annual conformance test and provide the results of a gas quality test that shows that its gas meets quality specifications and thus be exempt from said production area charges; and

(iv) To remove from El Paso's Form of GIC Sales Service Agreement any suggestion that El Paso's tariff language controlled over the customer's option of negotiating with El Paso the terms of its GIC service.

El Paso respectfully requested waiver of the Commission's Regulations, as appropriate, in order that the tendered tariff sheets providing for correlative discounts to similarly situated Shippers may become effective October 9, 1992, the date the order issued at Docket No. RP88–44–020 became effective and that one tariff sheet tendered for pagination purposes only become effective May 15, 1992, the currently effective date of the tariff sheet; and that the Commission accept the remaining tendered tariff sheets for filing and permit them to become effective on September 1, 1991, the effective date of the sheets being modified.

El Paso states that copies of the filing were served upon all parties of record in Docket No. RP88–44–000, *et al.*, and interested 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 November 19, 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 the filing are on file with the Commission and are available for public inspection.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 92–27976 Filed 11–17–92; 8:45 am]

BILLING CODE 6717–01–M

[Docket Nos. TA93–1–4–000, TA92–2–4–001 and TM93–3–4–000]

Granite State Gas Transmission, Inc.; Proposed Changes in Rate and Tariff Provisions

November 12, 1992.

Take notice that on November 5, 1992, Granite State Gas Transmission, Inc. (Granite State), 300 Friberg Parkway, Westborough, Massachusetts 01581–5039 tendered for filing with the Commission the revised tariff sheets listed below in its FERC Gas Tariff, Second Revised Volume No. 1, containing changes in rates and tariff provisions for effectiveness on January 1, 1993:

Twenty Second Revised Sheet No. 21
Third Revised Sheet No. 23
Fourth Revised Sheet No. 128
Third Revised Sheet No. 129
Third Revised Sheet No. 130
First Revised Sheet No. 131
First Revised Sheet No. 132
First Revised Sheet No. 133
Second Revised Sheet No. 138

Granite State states that its filing comprises its Annual Purchased Gas Cost filing including revised sales rates based on projected gas costs and sales for the first quarter of 1993. According to Granite State, its revised sales rates include (1) a Transportation Cost Adjustment based on the transportation costs for the delivery of certain gas supplies to Granite State's market and (2) a revised surcharge for deferred gas costs. It is further stated that the filing includes revisions in Granite State's purchased gas cost tariff procedures to reflect subaccounting for deferred gas costs on an as-billed basis in compliance with a Letter Order accepting its last Annual Purchased Gas Cost filing.

Granite State further states that its actual gas costs for the Third Interval (April, May and June, 1992) exceeded the Test amount for this interval by $317,125. Granite states that its gas costs exceeded the Test amount for reasons beyond its control because of a reduction in projected sales for June, 1992 and because of a sudden increase in the Commodity charge for its purchases from Shell Canada, Limited, in the same month.

According to Granite State, its filing also includes the revised Gas Research Institute (GRI) surcharge approved by the Commission in Docket No. RP92–133 (Phase I) for effectiveness on January 1, 1993. It is stated that the revised GRI surcharge includes demand and commodity units and is applicable only to Granite State's purchases from Shell Canada, Limited, and Direct Energy Marketing Limited that are delivered into Granite State's Portland Pipeline.

It is stated that the proposed rate changes and tariff provisions are applicable to Granite State's jurisdictional sales services and tariff provisions rendered to Bay State Gas Company and Northern Utilities, Inc. Granite State further states that copies of its filing were served upon its customers and the regulatory commissions of the States of Maine, Massachusetts and New Hampshire.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426 in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedures (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before November 30, 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 to the proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules. Copies of this filing are on file with the Commission and are available for public inspection.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 92–27982 Filed 11–17–92; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP93-9-001]

Northwest Alaskan Pipeline Co.; Compliance Filing

November 12, 1992.

Take notice that on November 6, 1992, Northwest Alaskan Pipeline Company ("Northwest Alaskan") tendered for filing as part of Rate Schedule X-2 of its FERC Gas Tariff, Original Volume No. 2, the following tariff sheets:

Effective November 1, 1992

Sixth Revised Sheet No. 200
Fourth Revised Sheet No. 201
Fifth Revised Sheet No. 221
Original Sheet Nos. 221A-221J
Fourth Revised Sheet No. 250
Sixth Revised Sheet No. 286
Original Sheet Nos. 286A-286G

The above referenced tariff sheets are being filed by Northwest Alaskan to comply with the October 30, 1992 Commission "Order Issuing Certificates, Approving Abandonments, Approving Settlement, and Accepting Tariff Sheets for Filing," issued in FERC Docket No. RP93-9-000, among others. The October 30th order accepted, subject to conditions, tariff sheets filed by Northwest Alaskan on October 2, 1992 to implement, in part, a broader transaction to restructure the arrangements among Northwest Alaskan, its supplier, Pan-Alberta Gas Ltd., its purchaser, Panhandle Eastern Pipe Line Company, and Northern Border Pipeline Company. Northwest Alaskan's October 2nd filing further stated that the tariff sheets would become effective on the later of November 1, 1992, or the first day following the day on which closing occurs in accordance with the Closing Agreement. The Commission's October 30, 1992 order accepted Northwest Alaskan's tariff sheets subject to (1) filing the tariff sheets; (2) filing a new conformed Rate Schedule X-2 after all post-closing billing adjustments are completed; and (3) filing the closing agreement with the Commission. Northwest Alaskan filed the closing agreement with the Commission on November 6, 1992. Northwest Alaskan will file a new conformed Rate Schedule X-2 upon satisfaction of all post-closing billing obligations. Therefore, pursuant to the October 30, 1992 order, Northwest Alaskan has filed the referenced tariff sheets within ten days of the effective date specified in the Closing Agreement.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rule 211 of the Commission's Rules of Practice and Procedure 18 CFR 385.211. All such protests should be filed on or before November 19, 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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 92-27977 Filed 11-17-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA92-1-86-003]

Pacific Gas Transmission Co.; Compliance Filing

November 12, 1992.

Take notice that on November 4, 1992, Pacific Gas Transmission Company (PGT), tendered for filing the following revised tariff sheets to its FERC Gas Tariff, Second Revised Volume No. 1:

1. Tariff sheet at Docket No. TA92-1-86-001, Substitute Fourteenth Revised Sheet No. 4, effective August 1, 1990;

2. Tariff sheets filed at Docket No. TF92-3-86-001, Substitute Fifteenth Revised Sheet No. 4, effective August 9, 1992;

3. Tariff sheets filed at Docket Nos. RF93-1-86-000 and TM93-1-86-002, Substitute 1st Revised Fifteenth Revised Sheet No. 4, effective September 25, 1992; Third Substitute Sixteenth Revised Sheet No. 4, effective October 1, 1992; and

4. Tariff sheets filed at Docket No. TQ93-1-86-000, Substitute Seventeenth Revised Sheet No. 4, effective November 1, 1992.

PGT states that the revised tariff sheets and supporting workpapers are being filed in compliance with the October 20, 1992 order. PGT states that the tariff sheets reflect the elimination of line pack costs from rates. The adjustment results in a commodity surcharge of ($0.0241/MMBtu).

PGT states that copies of the filing is being served upon all parties on the official service list in this proceeding.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with rule 211 of the Commission's Rules of Practice and Procedure 18 CFR 385.211. All such protests should be filed on or before November 19, 1992. Protects 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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 92-27978 Filed 11-17-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP89-137-007]

Northwest Pipeline Corp.; Report of Refunds

November 12, 1992.

Take notice that on October 26, 1992, Northwest Pipeline Corporation (Northwest) tendered for filing with the Federal Energy Regulatory Commission (Commission) its refund report made in compliance with the Commission's September 24, 1992 order in Docket No. RP89-137-000. Northwest states that the refund report is a refiling of the refund that was previously filed by Northwest on June 19, 1989 in Docket No. RP72-154-018.

Northwest states that on May 26, 1989 it refunded to its jurisdictional sales customers the February 28, 1989 commodity refund subaccount balance of Account No. 191.

Northwest states that the February 28, 1989 balance of $1,748,042 was refunded because the refund threshold was met as set forth in § 154.305 of the Commission's regulations. Northwest states that it also refunded $45,897.02 in carrying charges that related to the February 28, 1989 balance. Such carrying charges were calculated in compliance with the Commission's regulations and covered the time period of March 1, 1989 through May 26, 1989.

Northwest states that a copy of the refund report is being sent to Northwest's jurisdictional sales customers and to all affected state commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with rule 211 of the Commission's Rules of Practice and Procedure 18 CFR 385.211. All such protests should be filed on or before November 19, 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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 92-27981 Filed 11-17-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP93-22-000]

Texas Eastern Transmission Corp.; Petition for Declaratory Order

November 12, 1992.

Take notice that on November 12, 1992, Texas Eastern Transmission Corporation (Texas Eastern) filed a petition for a declaratory order and request for expedited action, pursuant to rule 207 of the Commission's rules of practice and procedure, 18 CFR 385.207. Texas Eastern asks the Commission to declare that it can continue to collect its gas inventory charge (GIC) from UGI Utilities, Inc. (UGI) pursuant to: (1) Its service agreements for Rate Schedule CD-1 and FT-1 services and (2) its certificate authority to serve UGI, granted in *Texas Eastern Transmission Corp.*, 50 FERC ¶ 61,435 (1990) order amending certificate, 56 FERC ¶ 61,395 (1991). Alternatively, Texas Eastern asks the Commission to declare that it is entitled to terminate service to UGI under Rate Schedules CD-1 and FT-1 pursuant to Texas Eastern's October 29, 1992 notice to terminate service, filed in Docket No. RP85-177-098. Because Texas Eastern seeks to terminate the services effective November 29, 1992, Texas Eastern asks the Commission to expedite consideration of this petition and issue a declaratory order prior to November 29, 1992. If the Commission has not acted on Texas Eastern's petition by November 29, 1922, Texas Eastern states it will assume it may continue the existing CD-1 and FT-1 service, including charging the GIC.

Any person desiring to be heard or to protest this filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with 18 CFR 385.214 and 385.211 of the Commission's rules and regulations. All such motions or protests should be filed on or before November 17, 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 petition are on file with the Commission and are available for public inspection in the public reference room.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 92-27868 Filed 11-17-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TM93-3-29-001]

Transcontinental Gas Pipe Line Corp.; Proposed Changes in FERC Gas Tariff

November 12, 1992.

Take notice that Transcontinental Gas Pipe Line Corporation (TGPL) tendered for filing on November 3, 1992 First Revised Sixth Revised Sheet No. 28, First Revised Fourth Revised Sheet No. 50 and First Revised First Revised Sheet No. 51 to Third Revised Volume No. 1 of its FERC Gas Tariff. The proposed effective date of the tariff sheets is October 1, 1992.

TGPL states that the purpose of the filing is to correct a pagination error reflected in TGPL's Tracking Filing of October 30, 1992 (October 30 Filing). Such filing tracked the decrease in the ACA charge included in the cost of certain storage and transportation services purchased by TGPL to render service to its customers under Rate Schedules LSS, SS-2, S-2, FT-NT and TGPL's Niagara Import Point Project-System Expansion (NIPPs-SE) firm transportation service. TGPL has discovered that these sheet designations had previously been used in TGPL's section 4 general rate filing in Docket No. RP92-108 which is currently under suspension. According to current pagination guidelines, the sheets included in the October 30 Filing to be effective October 1, 1992 should have been squeezed into sequence before the tariff sheets included in Docket No. RP92-108. Therefore, in the instant filing, TGPL is resubmitting Sheet Nos. 28, 50, and 51 with the corrected pagination. In all other respects, the tariff sheets included therein are identical to those submitted in the October 30 Filing.

TGPL states that copies of the filing are being mailed to each of its LSS, SS-2, S-2, FT-NT and NIPPs-SE customers and interested State Commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with rule 211 of the Commission's Rules of Practice and Procedure 18 CFR 385.211. All such protests should be filed on or before November 19, 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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 92-27980 Filed 11-17-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP87-115-007]

Williston Basin Interstate Pipeline Co.; Refund Report

November 12, 1992.

Take notice that on September 18, 1992, Williston Basin Interstate Pipeline Company (Williston Basin) tendered for filing a refund report and supporting workpapers in compliance with the Commission's order issued August 7, 1992, in the above-referenced docket.

Williston Basin states that on September 4, 1992, refunds were paid to Williston Basin's customers for the locked-in period March 1, 1988 through September 23, 1988, in accordance with § 154.67(c) of the Commission's regulations.

Williston Basin states that copies of the filing were served on Williston Basin's jurisdictional customers and interested state regulatory agencies.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with rule 211 of the Commission's Rules of Practice and Procedure 18 CFR 385.211. All such protests should be filed on or before November 19, 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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 92-27979 Filed 11-17-92; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[FRL-4534-6]

Agency Information Collection Activities Under OMB Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*), this notice announces the Office of Management and Budget's (OMB) responses to Agency PRA clearance requests.

FOR FURTHER INFORMATION CONTACT: Sandy Farmer at (202) 260–2740.

SUPPLEMENTARY INFORMATION:

OMB Responses to Agency PRA Clearance Requests

OMB Approvals

EPA ICR No. 0143.04; Recordkeeping Requirements for Producers of Pesticides; was approved 09/22/92; OMB No. 2070–0028; expires 09/30/95.

EPA ICR No. 1237.05; Information Collection Request for Revising Application Requirements for Sewage Sludge Permits to Implement Part 503 Sewage Sludge Standards; was approved 09/03/92; OMB No. 2040–0128; expires 08/31/95.

EPA ICR No. 0168.04; NPDES and Sewage Sludge Management of State Programs; was approved 10/15/92; OMB No. 2040–0057; expires 10/31/95.

EPA ICR No. 1495.02; FIFRA Reregistration Fees; was approved 10/15/92; OMB No. 2070–0101; expires 10/31/94.

EPA ICR No. 0229.08; NPDES State Sludge Management Monitoring Reports; was approved 10/08/92; OMB No. 2040–0004; expires 10/31/94.

EPA ICR No. 1427.03; Amendment to the ICR for the NPDES Compliance Assessment Information Requirements; was approved 10/08/92; OMB No. 2040–0110; expires 06/30/93.

EPA ICR No. 0318.04; Estimate of Municipal Wastewater Treatment Facility Requirements for the Needs Survey; was approved 10/09/92; OMB No. 2040–0050; expires 02/28/95.

ICR No. 1459.02; 1990 National Census of the Pulp, Paper, and Paperboard Manufacturing Facilities; was approved 10/08/92; OMB No. 2040–0144; expires 03/31/93.

Conditional Approval

EPA ICR No. 0794.04; Notification of Substantial Risk of Injury to Health and the Environment under section 8(E) of the Toxic Substances Control Act (TSCA, The Act); OMB No. 2070–0046; expires 09/30/93. This Information Collection Request received a one-year clearance with conditions. For a copy of the OMB Notice containing the conditions, please call Sandy Farmer on (202) 260–2740.

OMB Extension of Expiration Dates

EPA ICR No. 0664; NSPS for Bulk Gasoline Terminals (Subpart XX)–Information Requirements; OMB No. 2060–0006; expiration date extended to 01/31/93.

EPA ICR No. 0976; 1991 Hazardous Waste Report; OMB No. 2050–0024; expiration date extended to 12/31/92.

EPA ICR No. 0163; TSCA Inspection-Related Forms; OMB No. 2070–0007; expiration date extended to 01/31/93.

EPA ICR No. 1031; Recordkeeping and Reporting Requirements for Allegations of Significant Adverse Reactions to Human Health or the Environment; OMB No. 2070–0017; expiration date extended to 01/31/93.

EPA ICR No. 0575; Health and Safety Data Reporting Submission of Lists and Copies of Health and Safety Studies; OMB No. 2070–0004; expiration date extended to 12/31/92.

EPA ICR No. 0180; Emission Recall Audit Program Owner Questionnaire; OMB No. 2060–0046; expiration date extended to 05/31/93.

EPA ICR No. 0095; Pre-Certification Exemption, Testing Exemption; OMB No. 2060–0007; expiration date extended to 03/31/93.

EPA ICR No. 0184; Vehicle Emission Control Defect Survey; OMB No. 2060–0047; expiration date extended to 05/31/93.

Dated: November 9, 1992.

Paul Lapsley,

Director, Regulatory Management Division.

[FR Doc. 92–27969 Filed 11–17–92; 8:45 am]

BILLING CODE 6560–50–F

[FRL–4536–1]

Establishment of the Local Government-Small Community Advisory Committee

As required by section 9(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), EPA's Office of Regional Operations and State/Local Relations (OROSLR) is giving notice of the establishment of the Local Government–Small Community Advisory Committee to foster an exchange of information and provide advice to the Administrator on environmental implementation issues for local governments. Copies of the charter have been filed with the appropriate committees of Congress and the Library of Congress.

The Local Government-Small Community Advisory Committee will be composed of a balanced group of participants from local governments, state governments, public interest groups, environmental groups and other Federal Government officials.

For more information contact Mr. Lou Kerestesy at U.S. EPA, H–1501, 401 M Street, SW, Washington, DC 20460, or call 202–260–3870.

Laurie D. Goodman,

Associate Administrator, Office of Regional Operations and State/Local Relations.

[FR Doc. 92–28149 Filed 11–17–92; 8:45 am]

BILLING CODE 6560–50–M

[FRL–4534–7]

Public Water System Supervision Program Revision for the State of Montana

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 Montana has revised its Public Water System Supervision (PWSS) Primacy Program. Montana's PWSS program, administered by the Drinking Water Section of the Montana Department of Health and Environmental Sciences (DHES), has adopted (June 1991) regulations for total coliforms, that correspond to the NPDWR for total coliforms, promulgated by EPA on June 29, 1989 (54 FR 27544). The Environmental Protection Agency (EPA) has completed their review of Montana's primacy revision.

EPA has determined that the current version of Montana's primacy revision substantially meets the requirements of the federal rule. 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 Montana (available at the state and EPA offices listed at the end of this notice). Montana will incorporate the changes into their final regulation no later than December 31, 1994. Upon receipt of Montana's revised final regulation by this date, EPA will grant formal approval of Montana's primacy revision 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 December 18, 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, c/o Marty Swickard (8WM–DW) 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 Montana. A notice will also be sent to the person(s) requesting the hearing as well as to the State of Montana. 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 December 18, 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) Montana Department of Health and Environmental Sciences, Drinking Water Section, Cogswell Building, Helena, Montana 59620.

FOR FURTHER INFORMATION CONTACT: Marty Swickard, Drinking Water Branch, EPA Region VIII 8WM–DW, 999 18th Street, Suite 500, Denver, Colorado 80202–2466, telephone (303) 293–1629.

Dated: October 28, 1992.

Kerrigan G. Clough,

Acting Deputy Regional Administrator, EPA, Region VIII.

[FR Doc. 92–27953 Filed 11–17–92; 8:45 am]

BILLING CODE 6560–50–M

[FRL–4534–8]

Meeting of the Grand Canyon Visibility Transport Commission Work Plan Committees

AGENCY: U.S. Environmental Protection Agency.

ACTION: Notice of meeting.

SUMMARY: The United States Environmental Protection Agency (U.S. EPA) is announcing that meetings of the Operations, Technical, Alternatives Assessment, and Communications Committees of the Grand Canyon Visibility Transport Commission (Commission) will be held on November 18, 19, and 20, 1992, in Scottsdale, Arizona. The meetings will be held at the Camel View Hotel, 7601 East Indian Bend Road, Scottsdale, Arizona, beginning at 8:30 a.m. (PST) on November 18. The committees were established by the Commission to assist the Commission in carrying out its work plan at its June 21, 1992 meeting (see 57 FR 24790, June 11, 1992, and 57 FR 38683, August 26, 1992). The Commission was established by the EPA on November 13, 1992 (see 56 FR 57522, November 12, 1991). These meetings are held for the committees to report on tasks in progress and to assign additional work plan tasks to participating State, Federal, private and nongovernmental organizations. All meetings are open to the public. These meetings are not subject to provisions of the Federal Advisory Committee Act, Pub. L. No. 92–463, as amended (see section 169B(c)(4) of the Clean Air Act, 42 U.S.C. 7492(c)(4)).

DATES: The meetings will be held as follows:

Operations Committee, Wednesday, November 18, 8:30 a.m. to noon (PST), Friday, November 20, 8:30 a.m. to noon (PST)

Joint Meeting of all Committees, Wednesday, November 18, 1:30 p.m. to 5 p.m. (PST), Thursday, November 19, 3:30 p.m. to 5 p.m. (PST)

Technical, Alternatives Assessment, and Communications Committee (Concurrent Meetings), Thursday, November 19, 8:30 a.m. to 3 p.m. (PST)

ADDRESSES: The meetings will be held in Scottsdale, Arizona, at the Camel View Hotel, 7601 East Indian Bend Road.

FOR FURTHER INFORMATION CONTACT: Mr. John T. Leary, Project Manager for the Grand Canyon Visibility Transport Commission, Western Governors' Association, 600 17th Street, Suite 1705, South Tower, Denver, Colorado 80202. Telephone number (303) 623–9378. Facsimile machine number (303) 534–7309.

SUPPLEMENTARY INFORMATION: The Commission is charged with assessing currently available studies and information pertaining to visibility impairment in the region that includes the Grand Canyon National Park and the other "Golden Circle" of national parks and wilderness on the Colorado Plateau. The Commission is to report to the U.S. EPA by November 1995, recommending what measures, if any, should be taken under the Clean Air Act to address such impairment.

The three committees that have been established by the Commission through its approval of the work plan are: the Technical, Alternatives Assessment, and Communications Committees. The Technical Committee is charged with helping the Commission in: (1) The review of currently available studies and conducted needed additional analysis of existing raw data, (2) identification of new data needs if questions cannot be answered using existing data, (3) acquisition of data through ongoing or planned research and monitoring programs, and (4) development of projections of future haze conditions in the Golden Circle of national parks in the Southwest. The Alternatives Assessment Committee is charged with assisting the Commission to: (1) Identify emission management options, (2) assess the technical feasibility, costs, socio-economic costs and benefits of selected management options, and (3) conduct an integrated assessment of preferred management options. The Commissions Committee is charged with helping the Commission to: (1) Assess mechanisms for ensuring that the public has adequate input and opportunity to comment on Commission activities, (2) ensure that all workshops and other public input opportunities are structured in a way to be fair to all, and (3) take responsibility for comprehensive communications between all committees and between

the Commission structure and the public.

Dated: November 10, 1992.

Michael Shapiro,

Acting Assistant Administrator for Air and Radiation.

[FR Doc. 92-27954 Filed 11-17-92; 8:45 am]

BILLING CODE 6560-50-M

[FRL-4535-1]

Public Meetings on the Rulemaking for the Pulp, Paper, and Paperboard Industry

AGENCY: Environmental Protection Agency.

ACTION: Notice of public meetings.

SUMMARY: The U.S. Environmental Protection Agency (EPA) is announcing four public meetings regarding regulations that will apply to the pulp, paper, and paperboard industry. The regulations are scheduled to be proposed in October 1993. EPA is sponsoring these meetings to report on the status of regulatory development and to gather information and ideas from interested parties.

DATES: The dates for the public meetings are presented in the Supplementary Information section.

ADDRESSES: The meeting locations are listed in the Supplementary Information section.

FOR FURTHER INFORMATION CONTACT: Wendy Smith at U.S. Environmental Protection Agency—by mail at WH-552, Office of Science and Technology, 401 M. Street SW., Washington, DC. 20460; by telephone at 202-260-7184.

SUPPLEMENTARY INFORMATION: EPA is developing effluent limitations guidelines and standards under authority of the Clean Water Act and maximum achieveable control technology standards under authority of the Clean Air Act. The Agency will propose these water and air regulations simultaneously. The dates and locations for the public meetings are presented below. Seating at each meeting will be available for approximately 100 attendees.

Date	Location
12/16/92	Sheraton Crystal City, 1800 Jefferson Davis Highway, Arlington, VA 22202.
2/24/93	Raleigh, N.C. (details on this meeting will be supplied in a later FEDERAL REGISTER notice).
5/19/93	Washington, D.C. (details on this meeting will be supplied in a later FEDERAL REGISTER notice).
6/9/93	Raleigh, N.C. (details on this meeting will be supplied in a later FEDERAL REGISTER notice).

At the public meeting in December 1992, EPA will summarize the technology options being considered as the basis for the proposed rules. The February 1993 meeting will be held as part of the National Air Pollution Control Techniques Advisory Committee (NAPCTAC) meeting, and a separate **Federal Register** notice will be published with the details and location of this meeting. Preliminary impacts of the technology-based options will be presented at this meeting. In May 1993, EPA plans to report on the Deputy Administrator's selection of regulatory options, and in June 1993, the planned topics are regulatory and implementation issues. Additional meetings may be scheduled after June 1993.

INSPECTION OF DOCUMENTS: Documents relating to the topics mentioned above will be distributed prior to the meetings. Anyone wishing to be included on the mailing list for materials may contact Wendy Smith at the address or phone number above.

Dated: November 10, 1992.

Tudor T. Davies,

Director, Office of Science and Technology.

John S. Seitz,

Director, Office of Air Quality Planning and Standards.

[FR Doc. 92-27949 Filed 11-17-92; 8:45 am]

BILLING CODE 6560-50-M

[FRL-4535-6]

Science Advisory Board, Radiation Advisory Committee, Open Conference Call Meetings

Under Public Law 92-463, notice is hereby given that the Radiation Advisory Committee (RAC) of the Science Advisory Board of EPA will conduct three conference call meetings November 30 (from noon to 2 p.m. est), December 2 (from 11 a.m. to 1 p.m. est), and December 3 (from noon to 2 p.m. est), 1992. These meetings are open to the public.

At these meetings the Committee will conduct a consultation on EPA's plans for a study addressing the "risk of adverse human health effects associated with exposure to various pathways of radon" as required under the Safe Drinking Water Act Implementation, published in the Congressional Record September 25, 1992. The Committee plans to conduct a review of the final Agency product at an open meeting tentatively scheduled for April 26-27, 1993.

The SAB consultation is a mechanism which allows the EPA to benefit from the special insights of the Board before EPA has established its position. In the one-shot public session, EPA and the Board collegially discuss the problem in a brainstorming/information-gathering mode, not a judgemental one. Consensus with EPA, or even within the SAB Committee conducting the consultation, is not sought. Rather the goal is to expand the vision of EPA by laying as many legitimate views as possible on the table. Such consultations do not result in a formal report from the Executive Committee to the Administrator and no formal response from the Agency is sought or expected.

For additional information concerning these meetings or to obtain an agenda, please contact Mrs. Dorothy Clark, Staff Secretary, Radiation Advisory Committee, Science Advisory Board (A-101-F), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460. Phone: (202) 260-6552; Fax: (202) 7118. Anyone wishing to provide public comment for the meeting should forward twenty-five copies to Mrs. Clark no later than noon November 16. Opportunities for oral comment will be limited to no more than five minutes per speaker and no more than fifteen minutes per conference call. A fixed number of conference lines have been reserved for the meeting.

Dated: November 6, 1992.

A. Robert Flaak,

Acting Staff Director, Science Advisory Board.

[FR Doc. 92-28150 Filed 11-17-92; 8:45 am]

BILLING CODE 6560-50-M

[FRL 4534-9]

Government-Owned Inventions; Available for Licensing

AGENCY: Environmental Protection Agency.

ACTION: Notice of availability of inventions for licensing.

SUMMARY: The inventions listed below are owned by the U.S. Government and are available for licensing in the United States in accordance with 35 U.S.C. 207 and 37 CFR part 404. Pursuant to 37 CFR 404.7, the Government may grant exclusive or partially exclusive licenses on any of the inventions listed below three months after the date of this notice.

Copies of the listed patent applications are available from the person indicated below. Requests for copies of patent applications must include the patent application serial number. An application for a license should include the information set forth in 37 CFR 404.8, including applicant's plan for development or marketing the invention.

DATES: Exclusive licenses may be granted for the inventions listed below after February 18, 1993.

FOR FURTHER INFORMATION CONTACT: Thomas Gorman, Patent Counsel, Office of General Counsel (LE–132K), U.S. Environmental Protection Agency, Washington, DC 20460, Telephone (202) 260–1339.

Patent Applications

U.S. Patent Application 07/840,483: Fuzzy Logic Integrated Control Method and Apparatus to Improve Motor Efficiency; filed February 24, 1992.

U.S. Patent Application 07/866,936: Autoclavable Total Coliform Medium; filed April 10, 1992.

U.S. Patent Application 07/904,100: Vacuum Extractor Incorporating a Condenser Column; filed June 25, 1992.

Dated: November 12, 1992.

Raymond B. Ludwiszewski,

Acting General Counsel.

[FR Doc. 92–27952 Filed 11–17–92; 8:45 am]

BILLING CODE 6560–50–M

[OPP–180875; FRL–4082–7]

Emergency Exemptions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has granted specific exemptions for the control of various pests to the 28 States as listed below. Eleven crisis exemptions were initiated by various States and the U.S. Department of Agriculture. These exemptions, issued during the months of March, April, and May of 1992, are subject to application and timing restrictions and reporting requirements designated to protect the environment to the maximum extent possible. Information on these restrictions is available from the contact persons in EPA listed below.

DATES: See each specific and crisis exemption for its effective date.

FOR FURTHER INFORMATION CONTACT: See each emergency exemption for the name of the contact person. The following information applies to all contact persons: By mail: Registration Division (H7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 716, CM #2, 1921 Jefferson Davis Highway, Arlington, VA (703–305–5806).

SUPPLEMENTARY INFORMATION: EPA has granted specific exemptions to the:

1. Alabama Department of Agriculture and Industries for the use of amitraz on beehives to control tracheal mites; April 2, 1992, to December 30, 1992. EPA completed a rebuttable presumption against registration (RPAR) on this chemical; the final determination was published in the **Federal Register** of April 6, 1977 (42 FR 18299). (Libby Pemberton)

2. Arkansas State Plant Board for the use of bromoxynil on rice to control hemp sesbania, morningglory, Pennsylvania-smartweed, pale smartweed and cocklebur; May 4, 1992, to July 15, 1992. (Susan Stanton)

3. Arkansas State Plant Board for the use of quinclorac on rice to control propanil-resistant barnyard grass; April 3, 1992, to May 31, 1992. A solicitation of public comment was published in the **Federal Register** of March 11, 1992 (57 FR 8660). The Agency has issued this exemption on the basis that the development of propanil-resistant barnyard grass has resulted in an urgent, nonroutine situation that is expected to result in significant economic losses if quinclorac is not available. The use is toxicologically supported, and it is not expected to pose a risk of unreasonable adverse effects on nontarget organisms or the environment. (Susan Stanton)

4. Arkansas State Plant Board for the use of triclopyr on rice to control hemp sesbania, morningglory and northern jointvetch; May 12, 1992, to August 15, 1992. (Susan Stanton)

5. California Environmental Protection Agency for the use of avermectin on pears to control pear psylla and spider mites; April 9, 1992, to September 15, 1992. (Larry Fried)

6. California Environmental Protection Agency for the use of avermectin B_1 on strawberries to control spider mites; March 21, 1992, to March 3, 1993. (Larry Fried)

7. California Environmental Protection Agency, Department of Pesticide Regulation, for the use of benomyl on artichokes to control Ramularia leaf spot; May 22, 1992, to December 31, 1992. A solicitation of public comment was published in the **Federal Register** of May 6, 1992 (57 FR 19424); no comments were received. The Agency has issued this exemption on the basis that an emergency condition exists due to the presence of this new disease. The proposed use is toxicologically supported. The use is not expected to result in a significant risk of adverse effects on non-target organisms or the environment. Reasonable progress toward registration has been made. Interregional Research Project No. 4 (IR-4) has collected data in support of a tolerance for residues of benomyl on artichokes and expects to submit a petition soon. Benomyl was referred to Special Review in December 1977, the review process was completed on October 20, 1982. (Susan Stanton)

8. California Environmental Protection Agency for the use of cypermethrin on dry bulb onions to control thrips; May 28, 1992, to September 30, 1992. (Andrea Beard)

9. Delaware Department of Agriculture for the use of sodium fluoaluminate on potatoes to control the Colorado potato beetle; May 22, 1992, to September 30, 1992. (Libby Pemberton)

10. Florida Department of Agriculture and Consumer Services for the use of fenpropathrin on tomatoes to control sweet potato whiteflies; April 1, 1992, to April 1, 1993. (Andrea Beard)

11. Florida Department of Agriculture and Consumer Services for the use of iprodione on dancy tangerine, minneola tangelo, orlando tangelo, and murcott (honey tangerine) to control alternia brown spot; April 10, 1992, to July 31, 1992. (Susan Stanton)

12. Florida Department of Agriculture and Consumer Services for the use of malathion on atemoya and sugar apple to control annona seed bores; April 3, 1992, to December 31, 1992. (Susan Stanton)

13. Idaho Department of Agriculture for the use of avermectin on pears to control pear psylla and spider mites; April 9, 1992, to September 1, 1992. (Larry Fried)

14. Idaho Department of Agriculture for the use of pendimethalin on dry bulb onions to control broadleaf weeds and grasses; May 5, 1992, to July 1, 1992. (Larry Fried)

15. Idaho Department of Agriculture for the use of sethoxydim on canola to control volunteer grains and grasses; April 10, 1992, to July 15, 1992. (Susan Stanton)

16. Idaho Department of Agriculture for the use of cypermethrin on dry bulb onions to control thrips; May 28, 1992, to September 15, 1992. (Andrea Beard)

17. Idaho Department of Agriculture for the use of bifenthrin on hops to control aphids; May 15, 1992, to September 15, 1992. (Andrea Beard)

18. Indiana State Chemist and Seed Commissioner for the use of sethoxydim on mint to control foxtail, crabgrass, barnyardgrass, and quackgrass; May 15 1992, to August 31, 1992. (Susan Stanton)

19. Iowa Department of Agriculture for the use of pendimethalin on dry bulb onions to control broadleaf weeds and grasses; May 5, 1992, to September 30, 1992. (Larry Fried)

20. Iowa Department of Agriculture and Land Stewardship for the use of amitraz on beehives to control tracheal mites; April 2, 1992, to December 30, 1992. EPA completed a rebuttable presumption against registration (RPAR) on this chemical; the final determination was published in the **Federal Register** of April 6, 1977 (42 FR 18299). (Libby Pemberton)

21. Louisiana Department of Agriculture and Forestry for the use of bromoxynil on rice to control hemp sesbania and smartweed; May 4, 1992, to June 15, 1992. (Susan Stanton)

22. Louisiana Department of Agriculture and Forestry for the use of quinclorac on rice to control alligatorweed and palmleaf morningglory; April 10, 1992, to May 31, 1992. (Susan Stanton)

23. Louisiana Department of Agriculture and Forestry for the use of triclopyr on rice to control alligatorweed, jointvetch, and palmleaf morningglory; May 12, 1992, to June 15, 1992. (Susan Stanton)

24. Maine Department of Agriculture for the use of sodium fluoaluminate on potatoes to control the Colorado potato beetle; May 22, 1992, to September 30, 1992. (Libby Pemberton)

25. Maryland Department of Agriculture for the use of sodium fluoaluminate on potatoes to control the Colorado potato beetle; May 22, 1992, to September 30, 1992. (Libby Pemberton)

26. Massachusetts Department of Food and Agriculture for the use of metalaxyl on cranberries to control root rot; May 6, 1992, to December 1, 1992. (Larry Fried)

27. Michigan Department of Agriculture for the use of avermectin on pears to control spider mites; May 18, 1992, to September 30, 1992. (Larry Fried)

28. Michigan Department of Agriculture for the use of pendimethalin on dry bulb onions to control broadleaf weeds and grasses; May 5, 1992, to July 31, 1992. (Larry Fried)

29 Michigan Department of Agriculture for the use of cypermethrin on dry bulb onions to control thrips; May 28, 1992, to September 1, 1992. (Andrea Beard)

30. Minnesota Department of Agriculture for the use of amitraz on beehives to control tracheal mites; April 2, 1992, to December 30, 1992. EPA completed a rebuttable presumption against registration (RPAR) on this chemical; the final determination was published in the **Federal Register** of April 6, 1977 (42 FR 18299). (Libby Pemberton)

31. Minnesota Department of Agriculture for the use of pendimethalin on dry bulb onions to control broadleaf weeds and grasses; May 5, 1992, to July 31, 1992. (Larry Fried)

32. Mississippi Department of Agriculture and Commerce for the use of bromoxynil on rice to control hemp sesbania, morningglory, and cocklebur; May 4, 1992, to July 15, 1992. (Susan Stanton)

33. Mississippi Department of Agriculture and Commerce for the use of quinclorac on rice to control cocklebur, hemp sesbania, and morningglory; April 3, 1992, to May 31, 1992. A solicitation of public comment was published in the **Federal Register** of March 11, 1992 (57 FR 8660). The Agency has issued this exemption on the basis that the loss of 2,4,5-T and restrictions on the use of 2,4-D have resulted in an urgent, nonroutine situation with respect to mid-season broadleaf weed control in rice. If quinclorac is not available, significant economic losses are expected to occur. This use is toxicologically supported, and it is not expected to result in unreasonable adverse effects on nontargeted organisms or the environment. (Susan Stanton)

34. Mississippi Department of Agriculture and Commerce for the use of triclopyr on rice to control redstem and morningglory; May 15, 1992, to August 15, 1992. (Susan Stanton)

35. Montana Department of Agriculture for the use of sethoxydim on canola and mustard seed to control volunteer grains and grasses; April 10, 1992. to July 15, 1992. (Susan Stanton)

36. New Mexico Department of Agriculture for the use of cypermethrin on dry bulb onions to control thrips; May 28, 1992, to July 15, 1992. (Andrea Beard)

37. New Jersey Department of Environmental Protection for the use of chlorothalonil on blueberries to control anthracnose; May 7, 1992, to December 31, 1992. (Susan Stanton)

38. New Jersey Department of Environmental Protection for the use of sodium fluoaluminate on potatoes to control the Colorado potato beetle; May 22, 1992, to October 1, 1992. (Libby Pemberton)

39. New Jersey Department of Environmental Protection and Energy for the use of metaxyl on cranberries to control root rot; May 6, 1992, to December 31, 1992. (Larry Fried)

40. New York State Department of Environmental Conservation for the use of avermectin on pears to control pear psylla and spider mites; April 9, 1992, to September 30, 1992. (Larry Fried)

41. New York State Department of Environmental Conservation for the use of pendimethalin on dry bulb onions to control broadleaf weeds and grasses; May 5, 1992 to September 30, 1992. (Larry Fried)

42. New York State Department of Environmental Conservarion for the use of sodium fluoaluminate on potatoes to control the Colorado potato beetle; May 22, 1992, to October 30, 1992. (Libby Pemberton)

43. Ohio Department of Agriculture for the use of pendimethalin on dry bulb onions to control broadleaf weeds and grasses; May 5, 1992 to September 30, 1992. (Larry Fried)

44. Oregon Department of Agriculture for the use of avermectin on pears to control pear psylla and spider mites; April 9, 1992, to September 1, 1992. (Larry Fried)

45. Oregon Department of Agriculture for the use of pendimethalin on dry bulb onions to control broadleaf weeds and grasses; May 5, 1992, to July 1, 1992. (Larry Fried)

46. Oregon Department of Agriculture for the use of glyphosate on wheat to control common rye; May 27, 1992, to June 30, 1992. (Susan Stanton)

47. Oregon Department of Agriculture for the use of bifenthrin on strawberries to control root weevils; May 15, 1992, to September 30, 1992. (Andrea Beard)

48. Oregon Department of Agriculture for the use of cypermethrin on dry bulb onions to control thrips; May 28, 1992, to August 15, 1992. (Andrea Beard)

49. Pennsylvania Department of Agriculture for the use of avermectin on pears to control pear psylla and spider mites; April 9, 1992 to September 30, 1992. (Larry Fried)

50. Pennsylvania Department of Agriculture for the use of sodium fluoaluminate on potatoes to control the Colorado potato beetle; May 22, 1992, to September 30, 1992. (Libby Pemberton)

51. Rhode Island Department of Environmental Management for the use of sodium fluoaluminate on potatoes to control the Colorado potato beetle; May 22, 1992, to September 30, 1992. (Libby Pemberton)

52. South Carolina Department of Fertilizer and Pesticide Control for the use of acephate on fresh tomatoes to control stinkbugs; May 4, 1992, to December 1, 1992. (Andrea Beard)

53. South Carolina Division of Regulatory and Public Service Programs, Division of Agriculture and Natural Resources, Clemson University for the use of iprodine on apples to control alternaria blotch; May 15, 1992, to January 1, 1993. (Susan Stanton)

54. Texas Department of Agriculture for the use of triclopyr on rice to control alligatorweed and Texas weed; May 12, 1992, to August 31, 1992. (Susan Stanton)

55. Texas Department of Agriculture for the use of esfenvalerate on kale, kohlrabi and mustard greens to control cabbage loop; May 13, 1992, to November 30, 1992. (Libby Pemberton)

56. Texas Department of Agriculture for the use of cyromazine on peppers to control vegetable leafminers; May 26, 1992, to July 31, 1992. Texas had initiated a crisis for this use. (Susan Stanton)

57. Texas Department of Agriculture for the use of fenpropathrin on cotton to control the sweet potato whitefly; May 28, 1992, to May 28, 1993. (Andrea Beard)

58. Utah Department of Agriculture for the use of avermectin on pears to control pear psylla and spider mites; April 9, 1992, to September 1, 1992. (Larry Fried)

59. Utah Department of Agriculture for the use of cypermethrin on dry bulb onions to control thrips; May 28, 1992, to September 30, 1992. (Andrea Beard)

60. Virginia Department of Agriculture and Consumer Services for the use of iprodione on apples to control alternaria blotch; May 15, 1992, to September 15, 1992. (Susan Stanton)

61. Virginia Department of Agriculture and Consumer Services for the use of sodium fluoaluminate on potatoes to control the Colorado potato beetle; May 22, 1992, to August 31, 1992. (Libby Pemberton)

62. Washington Department of Agriculture for the use of avermectin on pears to control pear psylla and spider mites; April 9, 1992, to September 1, 1992. (Larry Fried)

63. Washington Department of Agriculture for the use of chlorpyrifos on grapes to control the grape mealy bug and cutworms; April 20, 1992, to August 15, 1992. (Andrea Beard)

64. Washington Department of Agriculture for the use of sethoxydim on canola to control volunteer grains and grasses; April 10, 1992, to November 15, 1992. (Susan Stanton)

65. Washington Department of Agriculture for the use of bifenthrin on strawberries to control root weevils; May 15, 1992, to September 30, 1992. (Andrea Beard)

66. Washington Department of Agriculture for the use of bifenthrin on hops to control aphids; May 15, 1992, to September 15, 1992. (Andrea Beard)

67. Wisconsin Department of Agriculture for the use of cypermethrin on dry bulb onions to control thrips; May 28, 1992, to September 30, 1992. (Andrea Beard)

68. Wisconsin Department of Agriculture for the use of pendimethalin on dry bulb onions to control broadleaf weeds and grasses; May 5, 1992, to June 30, 1992. (Larry Fried)

69. U.S. Department of Agriculture for the use of methyl bromide on oak logs to control oak wilt; May 22, 1992, to May 21, 1993. (Libby Pemberton)

70. U.S. Department of Agriculture, Animal and Plant Health Inspection Services for the use of paraformaldehyde to decontaminate high security animal laboratories, equipment, and holding rooms at USDA facilities; May 28, 1992, to September 30, 1992. (Andrea Beard)

Crisis exemptions were initiated by the:

1. California Environmental Protection Agency on April 29, 1992, for the use of cyfluthrin on navel oranges to control citrus thrips. The program has ended. (Libby Pemberton)

2. Louisiana Department of Agriculture and Forestry on May 1, 1992, for the use of clomazone on sweet potatoes to control annual broadleaf weeds and grasses. The program has ended. (Libby Pemberton)

3. Tennessee Department of Agriculture on April 13, 1992, for the use of clomazone on cotton to control velvetleaf and spurred anoda. The crisis exemption was revoked by EPA on April 22, 1992, based on the determination than an emergency condition did not exist. (Susan Stanton)

4. Texas Department of Agriculture on February 25, 1992, for the use of triadimenol on cotton seed to control black root rot. The program has ended. (Susan Stanton).

5. Wisconsin Department of Agriculture, Trade, and Consumer Protection on May 20, 1992, for the use of mancozeb on ginsing to control alternaria panex. The program has ended. (Libby Pemberton)

6. Wisconsin Department of Agriculture, Trade, and Consumer Protection on May 20, 1992, for the use of metalaxyl on ginsing to control phytophtora cactorum. The program has ended. (Libby Pemberton)

7. Wisconsin Department of Agriculture, Trade, and Consumer Protection on May 31, 1992, for the use of sethoxydim on canola to control quackgrass. This program has ended. (Susan Stanton)

8. U.S. Department of Agriculture on May 7, 1992, for the use of methyl bromide on chayote to control foreign plant pests not currently established in the United States. The need for this program is expected to last until May 6, 1995. (Libby Pemberton)

9. U.S. Department of Agriculture on April 28, 1992, for the use of methyl bromide on melons to control foreign pests not currently established in the United States. The need for this program is expected to last until April 27, 1995. (Libby Pemberton)

10. U.S. Department of Agriculture on April 6, 1992, for the use of methyl bromide on imported pineapples to control foreign pests not currently established in the United States. The need for this program is expected to last until April 5, 1995. (Libby Pemberton)

11. U.S. Department of Agriculture on April 21, 1992, for the use of soybean oil on ship decks, bulkheads, pier areas, and storage facilities. The need for this program is expected to last until April 20, 1995. (Libby Pemberton)

Dated: September 25, 1992.

Douglas D. Campt,

Director, Office of Pesticide Programs.

[FR Doc. 92-27988 Filed 11-17-92; 8:45 am]

BILLING CODE 6560-50-F

[OPP-180876; FRL-4163-8]

Emergency Exemptions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has granted specific exemptions for the control of various pests to the 30 States as listed below, and one was granted to the Puerto Rico Department of Agriculture. There were 14 crisis exemptions initiated by various States. These exemptions, issued during the months of June and July of 1992, are subject to application and timing restrictions and reporting requirements designed to protect the environment to the maximum extent possible. EPA has denied 14 specific exemption requests from various States. Information on these restrictions is available from the contact persons in EPA listed below.

DATES: See each specific and crisis exemption for its effective date.

FOR FURTHER INFORMATION CONTACT: See each emergency exemption for the name of the contact person. The following information applies to all contact persons: By mail: Registration Division (H7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC

20460. Office location and telephone number: Rm. 716, CM #2, 1921 Jefferson Davis Highway, Arlington, VA. (703–305–5806).

SUPPLEMENTARY INFORMATION: EPA has granted specific exemptions to the:

1. Arizona Department of Agriculture for the use of amitraz on cotton to control sweet potato whitefly; June 4, 1992, to August 15, 1992. (Andrea Beard)

2. Arizona Department of Agriculture for the use of avermectin B_1 on melons to control the American serpentine leafminer; July 17, 1992, to June 30, 1993. Arizona had initiated a crisis exemption for this use. (Larry Fried)

3. California Environmental Protection Agency for the use of avermectin B_1 on head lettuce to control leafminers; June 4, 1992, to June 3, 1993. (Libby Pemberton)

4. California Environmental Protection Agency, Department of Pesticide Regulation, for the use of triadimefon on tomatoes to control powdery mildew; June 19, 1992, to June 18, 1993. (Susan Stanton)

5. California Environmental Protection Agency, Department of Pesticide Regulation, for the use of fosetyl-aluminum (Aliette) on avocados to control phytophthora root rot; July 15, 1992, to July 14, 1993. (Susan Stanton)

6. California Environmental Protection Agency for the use of fenamiphos on broccoli and cauliflower to control nematodes; June 24, 1992, to October 15, 1992. California had initiated a crisis exemption for this use. (Libby Pemberton)

7. California Environmental Protection Agency, Department of Pesticide Regulation, for the use of methyl bromide on carrots to control nematodes; July 9, 1992, to July 9, 1993. (Libby Pemberton)

8. California Environmental Protection Agency for the use of cyfluthrin on oranges to control citrus thrips; July 10, 1992, to July 31, 1992. (Libby Pemberton)

9. California Environmental Protection Agency for the use of avermectin B_1 on peppers to control leafminers; June 6, 1992, to June 18, 1993. (Larry Fried)

10. California Environmental Protection Agency, Department of Pesticide Regulation, for the use of naled on swiss chard to control aphids; July 23, 1992, to July 22, 1993. (Susan Stanton)

11. California Environmental Protection Agency, Department of Pesticide Regulation, for the use of iprodione on celery to control sclerotinia pink rot; July 21, 1992, to July 20, 1993. (Susan Stanton)

12. Colorado Department of Agriculture for the use of lambda cyhalothrin on dry bulb onions to control thrips; July 10, 1992, to September 15, 1992. Colorado had initiated a crisis exemption for this use. (Andrea Beard)

13. Colorado Department of Agriculture for the use of chlorothalonil on mushrooms to control *verticillium* fungicola; July 1, 1992, to June 30, 1993. Colorado had initiated a crisis exemption for this use. (Susan Stanton)

14. Delaware Department of Agriculture for the use of clomazone on cucumbers, summer squash, and watermelon to control broadleaf weeds and grasses; June 29, 1992, to August 20, 1992. (Libby Pemberton)

15. Florida Department of Agriculture and Consumer Services for the use of methyl bromide on watermelons to control nematodes, fungi, and weeds; July 31, 1992, to July 30, 1993. (Libby Pemberton)

16. Georgia Department of Agriculture for the use of permethrin on southern peas to control cowpea curculio; June 4, 1992, to October 31, 1992. (Andrea Beard)

17. Idaho Department of Agriculture for the use of glyphosate on wheat to control common rye; June 11, 1992, to June 30, 1992. (Susan Stanton)

18. Kansas State Board of Agriculture for the use of bifenthrin on field corn to control mites; July 2, 1992, to September 15, 1992. (Andrea Beard)

19. Louisiana Department of Agriculture and Forestry for the use of clomazone on sweet potatoes to control annual broadleaf weeds and grasses; July 8, 1992, to July 31, 1992. Louisiana had initiated a crisis exemption for this use. (Libby Pemberton)

20. Maine Department of Agriculture, Food, and Rural Resources for the use of clomazone on winter squash to control broadleaf weeds; June 8, 1992, to July 31, 1992. (Libby Pemberton)

21. Maryland Department of Agriculture for the use of clomazone on cucumbers, snap beans, summer squash, sweet potatoes, and watermelon to control annual broadleaf weeds and grasses; June 24, 1992, to August 31, 1992. (Libby Pemberton)

22. Michigan Department of Agriculture for the use of bifenthrin on strawberries to control sap beetles; June 17, 1992, to July 31, 1992. (Andrea Beard)

23. Michigan Department of Agriculture for the use of triadimefon on asparagus to control asparagus rust; June 15, 1992, to November 1, 1992. (Susan Stanton)

24. Michigan Department of Agriculture for the use of chlorothalonil on asparagus to control purple spot; June 17, 1992, to November 1, 1992. (Susan Stanton)

25. Minnesota Department of Agriculture for the use of propiconazole on wild rice to control fungal brown spot; June 26, 1992, to August 31, 1992. (Andrea Beard)

26. Minnesota Department of Agriculture for the use of triclopyr on aquatic sites to control purple loopestrife; June 19, 1992, to December 1, 1992. (Libby Pemberton)

27. Nebraska Department of Agriculture for the use of bifenthrin on field corn to control mites; July 2, 1992, to September 15, 1992. (Andrea Beard)

28. New Hampshire Department of Agriculture for the use of clomazone on winter squash to control broadleaf weeds; June 8, 1992, to July 31, 1992. (Libby Pemberton)

29. New Mexico Department of Agriculture for the use of bifenthrin on field corn to control mites; July 2, 1992, to September 15, 1992. (Andrea Beard)

30. New York Department of Environmental Conservation for the use of vinclozolin on snap beans to control gray and white mold; June 4, 1992, to October 31, 1992. (Libby Pemberton)

31. North Carolina Department of Agriculture for the use of iprodione on apples to control alternaria blotch; June 1, 1992, to September 22, 1992. (Susan Stanton)

32. North Dakota Department of Agriculture for the use of benomyl on canola to control *Sclerotinia* stem rot; June 8, 1992, to July 15, 1992. A solicitation of public comment was published in the **Federal Register** of May 6, 1992 (57 FR 19425); no comments were received. The Agency has issued this exemption on the basis that under environmental conditions conducive to disease development an urgent nonroutine situation will exist which will result in significant economic losses. The proposed use is toxicologically supported. The use is not expected to result in a significant risk of adverse effects on non-target organisms or the environment. Reasonable progress is being made toward registration of this use. E. I. du Pont de Nemours and Company is actively pursuing registration and expects to submit an application for registration by the end of 1992. Benomyl was referred to Special Review in December 1977; the review process was completed on October 20, 1982. (Susan Stanton)

33. North Dakota Department of Agriculture for the use of sethoxydim on canola to control volunteer grains and grasses; June 4, 1992, to July 31, 1992. (Susan Stanton)

34. Oklahoma Department of Agriculture for the use of bifenthrin on

field corn to control mites; July 2, 1992, to September 15, 1992. (Andrea Beard)

35. Oregon Department of Agriculture for the use of vinclozolin on snap beans to control gray and white mold; June 4, 1992, to September 30, 1992. (Libby Pemberton)

36. Oregon Department of Agriculture for the use of chlorpyrifos on hops to control aphids; June 19, 1992, to September 15, 1992. (Andrea Beard)

37. Pennsylvania Department of Agriculture for the use of vinclozolin on snap beans to control gray and white mold; June 4, 1992, to October 31, 1992. (Libby Pemberton)

38. Puerto Rico Department of Agriculture for the use of triadimefon on coffee to control coffee rust; June 19, 1992, to June 18, 1993. (Libby Pemberton)

39. South Carolina College of Agricultural Sciences, Clemson University for the use of fenamiphos on kiwi fruit to control nematodes; July 17, 1992, to July 16, 1993. (Libby Pemberton)

40. Tennessee Department of Agriculture for the use of chlorothalonil on mushrooms to control *verticillium* fungicola; July 1, 1992, to June 30, 1993. (Susan Stanton)

41. Texas Department of Agriculture for the use of chlorothalonil on mushrooms to control *verticillium* fungicola; July 1, 1992, to June 30, 1993. (Susan Stanton)

42. Texas Department of Agriculture for the use of bifenthrin on field corn to control mites; July 2, 1992, to September 15, 1992. (Andrea Beard)

43. Utah Department of Agriculture for the use of sethoxydim on canola to control volunteer grains and grasses; June 4, 1992, to July 15, 1992. (Susan Stanton)

44. Virginia Department of Agriculture and Consumer Services for the use of clomazone on snap beans, cucumbers, watermelons, and sweet potatoes to control annual broadleaf weeds; June 18, 1992, to September 30, 1992. (Libby Pemberton)

45. Washington Department of Agriculture for the use of vinclozolin on snap beans to control gray and white mold; June 4, 1992, to September 30, 1992. (Libby Pemberton)

46. Washington Department of Agriculture for the use of lamdba cyhalothrin on dry bulb onions to control thrips; July 10, 1992, to August 31, 1992. (Andrea Beard)

47. Washington Department of Agriculture for the use of amitraz on bees on to control tracheal mites; July 31, 1992, to June 1, 1993. Additional studies and labeled revisions are required for amitraz which is subject to Special Review. (Andrea Beard)

48. Washington Department of Agriculture for the use of esfenvalerate on cranberries to control weevils; June 4, 1992, to August 5, 1992. (Libby Pemberton)

49. West Virginia Department of Agriculture for the use of amitraz on bees on to control tracheal mites; July 31, 1992, to April 1, 1993. Additional studies and labeled revisions are required for amitraz which is subject to Special Review. (Andrea Beard)

50. Wisconsin Department of Agriculture for the use of bromoxynil on sweet corn to control broadleaf weeds; July 21, 1992, to September 30, 1992. Wisconsin had initiated a crisis exemption for this use. (Susan Stanton)

Crisis exemptions were initiated by the:

1. California Environmental Protection Agency, Department of Pesticide Regulation, on July 28, 1992, for the use of myclobutanil on strawberries to control powdery mildew. The need for this program is expected to last until July 27, 1993. (Susan Stanton)

2. Idaho Department of Agriculture on July 9, 1992, for the use of paraquat dichloride on dry peas and lentils to control weeds. The need for this program is expected to last until September 15, 1992. (Susan Stanton)

3. Office of Indiana State Chemist and Seed Commissioner on June 10, 1992, for the use of cryolite on potatoes to control the Colorado potato beetle. The need for this program is expected to last until October 30, 1992. (Libby Pemberton)

4. Kansas State Board of Agriculture on June 30, 1992, for the use of landmaster BW (glyphosate and 2,4-D amine) on wheat to control weeds. This program has ended. (Susan Stanton)

5. Louisiana Department of Agriculture on July 15, 1992, for the use of metalaxyl on tobacco to control blue mold. This program has ended. (Libby Pemberton)

6. Michigan Department of Agriculture on June 17, 1992, for the use of cyromazine on potatoes to control the Colorado potato beetle. The need for this program is expected to last until September 30, 1992. (Libby Pemberton)

7. Michigan Department of Agriculture on June 19, 1992, for the use of sethoxydim on canola/rape grown for seed to control quackgrass. This program has ended. (Susan Stanton)

8. Montana Department of Agriculture on July 21, 1992, for the use of glyphosate on winter wheat to control weeds. This program has ended. (Susan Stanton)

9. Montana Department of Agriculture on July 24, 1992, for the use of benomyl on canola to control *Sclerotinia* stem rot. This program has ended. (Susan Stanton)

10. South Dakota Department of Agriculture on July 17, 1992, for the use of glyphosate on barley, oats, and wheat to control weeds. The need for this program is expected to last until September 15, 1992. (Susan Stanton)

11. Texas Department of Agriculture on July 10, 1992, for the use of glyphosate on grain sorghum to control Johnsongrass. The need for this program is expected to last until October 20, 1992. (Susan Stanton)

12. Washington Department of Agriculture on July 9, 1992, for the use of paraquat dichloride on dry peas and lentils to control weeds. The need for this program is expected to last until September 15, 1992. (Susan Stanton)

13. United States Department of Agriculture on July 20, 1992, for the use of methyl bromide on plantains to control foreign plant pests. The need for this program is expected to last until 1995. (Libby Pemberton)

14. United States Department of Agriculture on July 6, 1992, for the use of methyl bromide on prickly pears to control pests not currently established in the United States. The need for this program is expected to last until July 5, 1995. (Libby Pemberton)

EPA has denied specific exemption requests from the:

1. Illinois Department of Agriculture for the use of permethrin on snap beans to control the European corn borer and the corn earworm. (Andrea Beard)

2. Louisiana Department of Agriculture and Forestry for the use of clomazone on cotton to control wild poinsettia. (Susan Stanton)

3. Minnesota Department of Agriculture for the use of permethrin on snap beans to control the European corn borer and the corn earworm. (Andrea Beard)

4. Mississippi Department of Agriculture and Commerce for the use of clomazone on cotton to control velvetleaf, spurred anoda, and morningglory. (Susan Stanton)

5. North Dakota Department of Agriculture for the use of sethoxydim on crambe to control volunteer grains and grasses. (Susan Stanton)

6. Oklahoma Department of Agriculture for the use of fluazinam on peanuts to control *Sclerotinia* minor. (Susan Stanton)

7. Tennessee Department of Agriculture for the use of clomazone on cotton to control velvetleaf and spurred anoda. (Susan Stanton)

8. Texas Department of Agriculture for the use of iprodione on celery to control

Rhizoctonia stalk rot and *Sclerotinia* pink rot. (Susan Stanton)

9. Texas Department of Agriculture for the use of amitraz on cotton to control the sweet potato whitefly. (Andrea Beard)

10. Texas Department of Agriculture for the use of triademenol on cotton seed to control thielaviopsis black root rot. (Susan Stanton)

11. Virginia Department of Agriculture and Consumer Services for the use of clomazone on cotton to control velvetleaf, spurred anoda, and jimsonweed. (Susan Stanton)

12. Virginia Department of Agriculture and Consumer Services for the use of fluazinam on peanuts to control sclerotinia blight. (Susan Stanton)

13. Washington Department of Agriculture for the use of chlorpyrifos on hops to control the hop aphid. (Andrea Beard)

14. Wisconsin Department of Agriculture, Trade, and Consumer Protection for the use of permethrin on snap beans to control the European corn borer and the corn borer. (Andrea Beard)

Authority: 7 U.S.C. 136.

Dated: September 25, 1992.

Douglas D. Campt,

Director, Office of Pesticide Programs.

[FR Doc. 92-27984 Filed 11-17-92; 8:45 am]

BILLING CODE 6560-50-F

[PP 4G3156/T629; FRL 4167-6]

Monoammonium; Extension of Temporary Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has extended temporary tolerances for the combined residues of the herbicide monoammonium and its metabolite in or on certain raw agricultural commodities.

DATES: These temporary tolerances expire June 6, 1993.

FOR FURTHER INFORMATION CONTACT: By mail: Joanne Miller, Product Manager (PM) 23, Registration Division (H7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 237, CM#2, 1921 Jefferson Davis Highway, Arlington, VA, (703) 305-7850.

SUPPLEMENTARY INFORMATION: EPA issued a notice, which was published in the **Federal Register** of August 7, 1991 (56 FR 37548), announcing the extension of temporary tolerances for the combined residues of the herbicide monoammonium 2-amino-4-(hydroxymethylphosphinyl) butanoate and its metabolite 3-methylphosphinicopropionic acid in or on the raw agricultural commodities grapes, pome fruit, stone fruit and soybean seed at 0.05 part per million (ppm). These tolerances were issued in response to pesticide petition (PP) 4G3156, submitted by Hoechst Celanese Corporation, Rt. 202-206, P.O. Box 2500, Somerville, NJ 08876.

These temporary tolerances have been extended to permit the continued marketing of the raw agricultural commodities named above when treated in accordance with the provisions of experimental use permit 8340-EUP-10, which is being extended under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended (Pub. L. 95-396, 92 Stat. 819; 7 U.S.C. 136).

The scientific data reported and other relevant material were evaluated, and it was determined that the extension of these temporary tolerances will protect the public health. Therefore, the temporary tolerances have been extended on the condition that the pesticide be used in accordance with the experimental use permit and with the following provisions:

1. The total amount of the active herbicide to be used must not exceed the quantity authorized by the experimental use permit.

2. Hoechst Celanese Corp., must immediately notify the EPA of any findings from the experimental use that have a bearing on safety. The company must also keep records of production, distribution, and performance and on request make the records available to any authorized officer or employee of the EPA or the Food and Drug Administration.

These tolerances expire June 6, 1993. Residues not in excess of this amount remaining in or on the raw agricultural commodities after this expiration date will not be considered actionable if the pesticide is legally applied during the term of, and in accordance with, the provisions of the experimental use permit and temporary tolerances. These tolerances may be revoked if the experimental use permit is revoked or if any experience with or scientific data on this pesticide indicate that such revocation is necessary to protect the public health.

The Office of Management and Budget has exempted this notice 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).

Authority: 21 U.S.C. 346a(j).

Dated: October 7, 1992.

Anne E. Lindsay,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc.92-27972 Filed 11-17-92; 8:45 am]

BILLING CODE 6560-50-F

[PP 9G3765/T627; FRL 4167-4]

Myclobutanil; Renewal of a Temporary Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has renewed a temporary tolerance for the combined residues of the fungicide myclobutanil and its metabolite (free and bound) in or on the raw agricultural commodity cucurbit vegetable group at 0.5 part per million (ppm).

DATES: This temporary tolerance expires January 22, 1994.

FOR FURTHER INFORMATION CONTACT: By mail: Susan Lewis, -Product Manager (PM) 21, Registration Division (H7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. -Office location and telephone number: Rm. 229, CM#2, 1921 Jefferson Davis Highway, Arlington, VA, 703-305-6900.

SUPPLEMENTARY INFORMATION: EPA issued a notice, published in the **Federal Register** of March 1, 1990 (55 FR 7466), stating that a temporary tolerance had been established for the combined residues of the fungicide myclobutanil, [alpha-butyl-alpha-(4-chlorophenyl)-1*H*-1,2,4-triazole-1-propanenitrile] and its metabolite alpha-(3-hydroxybutyl)-alpha-(4-chlorophenyl)-1*H*-1,2,4-triazole-1-propanenitrile (free and bound) in or on the raw agricultural commodity cucurbit vegetable group at 0.5 part per million (ppm). This tolerance is renewed in response to pesticide petition (PP) 9G3765, submitted by Rohm and Haas Co., Independence Mall West, Philadelphia, PA 19105.

The company has requested a 1-year renewal of a temporary tolerance for residues of the fungicide to permit the

continued marketing of the above raw agricultural commodity when treated in accordance with the provisions of the experimental use permit 707–EUP–122, which is being renewed under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended (Pub. L. 95–396, 92 Stat. 819; 7 U.S.C. 136).

The scientific data reported and other relevant material were evaluated, and it was determined that a renewal of the temporary tolerance will protect the public health. Therefore, the temporary tolerance has been renewed on the condition that the pesticide be used in accordance with the experimental use permit and with the following provisions:

1. The total amount of the active ingredient to be used must not exceed the quantity authorized by the experimental use permit.

2. Rohm and Haas Co., must immediately notify the EPA of any findings from the experimental use that have a bearing on safety. The company must also keep records of production, distribution, and performance and on request make the records available to any authorized officer or employee of the EPA or the Food and Drug Administration.

This tolerance expires January 22, 1994. Residues not in excess of this amount remaining in or on the above raw agricultural commodity after this expiration date will not be considered actionable if the pesticide is legally applied during the term of, and in accordance with, the provisions of the experimental use permit and temporary tolerance. This tolerance may be revoked if the experimental use permit is revoked or if any experience with or scientific data on this pesticide indicate that such revocation is necessary to protect the public health.

The Office of Management and Budget has exempted this notice 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).

Authority: 21 U.S.C. 346a(j).

Dated: October 2, 1992.

Anne E. Lindsay,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 92–27973 Filed 11–17–92; 8:45 am]

BILLING CODE 6560–50–F

[PF–567; FRL–4164–7]

Rhone Poulenc Ag. Co.; Amended Pesticide Petition for Aluminum Tris (O-Ethylphosphonate)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received from the Rhone Poulenc Ag. Co. the filing of an amendment to pesticide petition (PP) 6F3420 proposing to establish a tolerance of 25 parts per million (ppm) for residues of the fungicide aluminum (*O*-ethylphosphonate) in or on the raw agricultural commodity avocados.

ADDRESSES: By mail, submit written comments, identified by the document control number [PF-567], to: Public Response and Program Resources Branch, Field Operations Division (H7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., Sw., Washington, DC 20460. In person, bring comments to: Rm. 1128, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202.

Information submitted as a comment concerning this notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments will be available for public inspection in Rm. 1128 at the address given above, from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: Cynthia Giles-Parker, Product Manager (PM 22), Registration Division (H-7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 229, CM#2, 1921 Jefferson Davis Hwy., Arlington, VA 22202, (703)-305-5540.

SUPPLEMENTARY INFORMATION: EPA has received from the Rhone Poulenc Ag. Co., P.O. Box 12014, Research Triangle Park, NC 27709, an amendment to the notice of filing under section 408 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a) for pesticide petition (PP) 6F3420, which appeared in the **Federal Register** of June 23, 1986 (51 FR 26465). The original petition proposed the establishment of a tolerance of 10 parts per million for the fungicide aluminum tris (*O*-ethylphosphonate) in or on the raw agricultural commodity avocados.

Authority: 7 U.S.C. 346a and 371.

Dated: October 17, 1992.

Lawrence E. Cullen,

Acting Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 92–27987; Filed 11–17–92; 8:45 am]

BILLING CODE 6560–50–F

[OPP–30344; FRL–4166–9]

Roussel Bio Corp; Application to Register a Pesticide Product

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces receipt of an application to register the pesticide product Deltamethrin Technical, containing an active ingredient not included in any previously registered products pursuant to the provisions of section 3(c)(4) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended.

DATES: Written comments must be submitted by December 18, 1992.

ADDRESSES: By mail submit comments identified by the document control number [OPP–30344] and the file symbol (432–TAE) to: Public Response and Program Resources Branch, Field Operations Division (H7506C), Attention PM 13, Registration Division (H7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring comments to: Rm. 1128, Environmental Protection Agency, CM #2, 1921 Jefferson Davis Highway, Arlington, VA.

Information submitted in any comment concerning this notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA

without prior notice to the submitter. All written comments will be available for public inspection in Rm. 1128 at the address given above, from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT: PM 13, George LaRocca, Rm. 202, CM #2, (703–305–6100).

SUPPLEMENTARY INFORMATION: EPA received an application from Roussel Bio Corporation, 170 Beaver Brook Road, Lincoln Park, NJ 07035, to register the pesticide product Deltamethrin Technical (File Symbol 432–TAE), an insecticide containing the active ingredient (1*R*,3*R*)-3 (2,2-dibromovinyl)-2,2-dimethyl cyclopropane carboxylic acid (S)-alpha-cyano-3-phenoxybenzyl ester at 98 percent; an ingredient not included in any previously registered product pursuant to the provisions of section 3(c)(4) of FIFRA. The product is used for formulation purposes only. Notice of receipt of the application does not imply a decision by the Agency on the application.

Notice of approval or denial of an application to register a pesticide product will be announced in the **Federal Register**. The procedure for requesting data will be given in the **Federal Register** if an application is approved.

Comments received within the specified time period will be considered before a final decision is made; comments received after the time specified will be considered only to the extent possible without delaying processing of the application.

Written comments filed pursuant to this notice, will be available in the Public Response and Program Resources Branch, Field Operations Division (FOD) office at the address provided from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays. It is suggested that persons interested in reviewing the application file, telephone the FOD office (703–305–5805), to ensure that the file is available on the date of intended visit.

Authority: 7 U.S.C. 136.

Dated: October 2, 1992.

Anne E. Lindsay,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 92–27983 Filed 11–17–92; 8:45 am]

BILLING CODE 6560–50–F

[OPP–30248A; FRL–4171–2]

Sandoz Agro Inc; Approval of a Pesticide Product Registration

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces Agency approval of an application submitted by Sandoz Agro Inc., to register the pesticide product Oxadixyl Technical Fungicide containing an active ingredient not included in any previously registered product pursuant to the provisions of section 3(c)(5) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended.

FOR FURTHER INFORMATION CONTACT: By mail: Susan T. Lewis, Product Manager (PM) 21, Registration Division (H7505C), Office of Pesticide Programs, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 227, CM #2, Environmental Protection Agency, 1921 Jefferson Davis Hwy, Arlington, VA 22202, (703-305–6900).

SUPPLEMENTARY INFORMATION: EPA issued a notice, published in the **Federal Register** of February 21, 1985 (50 FR 7216), which announced that Zoecon Corporation, 975 California Ave., Palo Alto, CA 94304, had submitted an application to register the pesticide product Oxadixyl Technical Fungicide (EPA File Symbol 11273–LE), containing the active ingredient 2-methoxy-*N*-(2-oxo-1,3-oxazolidin-3-yl)-acet-2'6'-xylidide at 96 percent; an active ingredient not included in any previously registered product.

The pending application for Oxadixyl Technical Fungicide, containing the same active ingredient was later transferred to Sandoz Agro, Inc., 1300 East Touhy Ave., Des Plaines, IL 60018.

The application was approved on February 27, 1992, as Oxadixyl Technical Fungicide for manufacturing use only. The product was assigned EPA Registration Number 55947–112.

The Agency has considered all required data on risks associated with the proposed use of oxadixyl (2-methoxy-*N*-(2-oxo-1,3-oxazolidin-3-yl)-acet-2',6'-xylidide, and information on social, economic, and environmental benefits to be derived from use. Specifically, the Agency has considered the nature of the chemical and its pattern of use, application methods and rates, and level and extent of potential exposure. Based on these reviews, the Agency was able to make basic health safety determinations which show that use of oxadixyl (2-methoxy-*N*-(2-oxo-1,3-oxazolidin-3-yl)-acet-2',6'-xylidide when used in accordance with widespread and commonly recognized practice, will not generally cause unreasonable adverse effects to the environment.

More detailed information on this registration is contained in a Chemical Fact Sheet on oxadixyl (2-methoxy-*N*-(2-oxo-1,3-oxazolidin-3-yl)-acet-2',6'-xylidide.

A copy of this fact sheet, which provides a summary description of the chemical, use patterns and formulations, science findings, and the Agency's regulatory position and rationale, may be obtained from the National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, VA 22161.

In accordance with section 3(c)(2) of FIFRA, a copy of the approved label and the list of data references used to support registration are available for public inspection in the office of the Product Manager. The data and other scientific information used to support registration, except for material specifically protected by section 10 of FIFRA, are available for public inspection in the Public Response and Program Resources Branch, Field Operations Division (H7506C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 1128, CM #2, Arlington, VA 22202 (703-305–5805). Requests for data must be made in accordance with the provisions of the Freedom of Information Act and must be addressed to the Freedom of Information Office (A-101), 401 M St., SW., Washington, D.C. 20460. Such requests should: (1) Identify the product name and registration number and (2) specify the data or information desired.

Authority: 7 U.S.C. 136.

Dated: October 30, 1992.

Douglas D. Campt,

Director, Office of Pesticide Programs.

[FR Doc. 92–27974 Filed 11–17–92; 8:45 am]

BILLING CODE 6560–50–F

[PP 0G3892/T628; FRL 4167–5]

Sandoz Crop Protection Corporation; Renewal of Temporary Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has renewed temporary tolerances for residues of the herbicide 2-chloro-*N*- [(1-methyl-2-methoxy)ethyl]-*N*-(2,4-dimethyl-thien-3-yl)-acetamide, parent compound only, in or on certain raw agricultural commodities.

DATES: These temporary tolerances expire March 1, 1994.

FOR FURTHER INFORMATION CONTACT: By mail: Cynthia Giles-Parker, –Product Manager (PM) 22, Registration Division (H7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: –Rm. 229, CM#2, 1921 Jefferson Davis Highway, Arlington, VA, (703) 305–5540.

SUPPLEMENTARY INFORMATION: EPA issued a notice, published in the **Federal Register** of May 27, 1992 (57 FR 22235), stating that temporary tolerances had been established for residues of the herbicide 2-chloro-*N*-[(1-methyl-2-methoxy)ethyl]-*N*-(2,4-dimethyl-thien-3-yl)-acetamide, parent compound only, in or on the raw agricultural commodities corn grain, corn forage, and corn fodder (stover) at 0.01 part per million (ppm). These tolerances are being renewed in response to pesticide petition (PP) 0G3892, submitted by Sandoz Crop Protection Corporation, 1300 East Touhy Ave., Des Plaines, IL 60018.

The company has requested a 1-year renewal of the temporary tolerances for residues of the herbicide to permit the continued marketing of the above raw agricultural commodities when treated in accordance with the provisions of the experimental use permit 55947-EUP-11, which is being renewed under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended (Pub. L. 95–396, 92 Stat. 819; 7 U.S.C. 136).

The scientific data reported and other relevant material were evaluated, and it was determined that renewal of the temporary tolerances will protect the public health. Therefore, the temporary tolerances have been renewed on the condition that the pesticide be used in accordance with the experimental use permit and with the following provisions:

1. The total amount of the active ingredient to be used must not exceed the quantity authorized by the experimental use permit.

2. Sandoz Crop Protection Corp., must immediately notify the EPA of any findings from the experimental use that have a bearing on safety. The company must also keep records of production, distribution, and performance and on request make the records available to any authorized officer or employee of the EPA or the Food and Drug Administration.

These tolerances expire March 1, 1994. Residues not in excess of these amount remaining in or on the above raw agricultural commodities after this expiration date will not be considered actionable if the pesticide is legally applied during the term of, and in accordance with, the provisions of the experimental use permit and temporary tolerances. These tolerances may be revoked if the experimental use permit is revoked or if any experience with or scientific data on this pesticide indicate that such revocation is necessary to protect the public health.

The Office of Management and Budget has exempted this notice 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).

Authority: 21 U.S.C. 346a(j).

Dated: October 6, 1992.

Anne E. Lindsay,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 92–27991 Filed 11–17–92; 8:45 am]

BILLING CODE 6560–50–F

[FRL–4535–3]

Proposed Administrative Order on Consent; Lowry Landfill Site, Arapahoe County, CO

AGENCY: U.S. Environmental Protection Agency (U.S. EPA).

ACTION: Proposed *de minimis* settlement.

SUMMARY: In accordance with the requirements of section 122(i)(1) of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended (CERCLA), notice is hereby given of a proposed *de minimis* settlement under section 122(g) concerning the Lowry Landfill Site in Arapahoe Country, Colorado (the Site). The proposed administrative order on consent (AOC) requires 22 potentially responsible parties (PRSP) to together pay $633,789.78 to resolve their liability to the EPA related to response actions taken or to be taken at the Site.

DATES: Comments must be submitted by December 18, 1992.

ADDRESSES: Comments should be addressed to Nancy H. Mueller (8HWM–SR), Enforcement Specialist, U.S. Environmental Protection Agency, Region VIII, 999 18th Street, Suite 500, Denver, Colorado 80202–2405, and should refer to: In the matter of: Lowry Landfill *De Minimis* Settlement.

FOR FURTHER INFORMATION CONTACT: Nancy Mueller, Superfund Remedial Branch, Enforcement Section at (303) 294–7657 until November 25, 1992. After that date, contact Ms. Mueller at (303) 294–1130.

SUPPLEMENTARY INFORMATION: Notice of section 122(g) *De Minimis* Settlement: In accordance with section 122(i)(1) of CERCLA, notice is hereby given that the terms of an Administrative Order on Consent (AOC) have been agreed to by the following parties, for the following amounts: Adams Arapahoe Joint District No. 28J ($1,085.76); Allied Trades, Inc., d/b/a/ Barnett Lumber Co. ($2,262.00); Asarco Inc. Globe Plant ($20,358); AT&T Industries, Inc. ($5,655.00); Burlington Northern Railroad ($2,488.20); Camp Dresser & McKee, Inc. ($8,991.45); City of Colorado Springs ($1,950.98); Cord Laboratories, Inc. ($79,464.06); Lowenstein Theater/Denver Center for the Performing Arts ($28.28); Marathon Oil Company ($1,131.00); Martin Marietta Corporation—Denver Aerospace ($94,975.73); National Wire and Stamping Inc. ($6,141,33); Pepsi-Cola Bottling Company ($15,364.64); Samsonite Corporation ($30,508.73); Smith Kline Beecham Corporation ($6,220.50); U.S. Geological Survey National Water Quality Laboratory ($61,271.93); U.S. Air Force ($116,866.23); U.S. Defense Logistics Agency ($24,259.95); U.S. EPA Region VIII Lab ($1,413.75); U.S. Mint, Treasury Department ($42,978.00); U.S. Veterans Administration Medical Center ($106,133.04); and Valleylab, Inc. ($4,241.25). By the terms of the proposed AOC, these PRPs will together pay $633,789.78 to the Hazardous Substances Trust Fund (Superfund). The $633,789.78 represents approximately 0.12% of the total anticipated costs for the site.

In exchange for payment, U.S. EPA will provide the settling parties with a covenant not to sue for CERCLA liability at the Site, including, but not limited to liability for EPA past costs, the one-time cost of remedy, future EPA oversight costs and future operation and maintenance of the as-yet unselected remedy.

The amount that each individual PRP will pay, as shown above, equals $3.77 multiplied by the number of gallons of waste the party sent to the Site (Base Amount), *plus* a premium payment of 50% or 200% of the Base Amount. The per gallon charge of $3.77 was calculated by dividing the total estimated response costs of the Site ($536,000,000) by the total estimated

volume of waste disposed of at the Site (142,295.420 gallons). For parties paying a 50% premium, there is an exception to the covenant not to sue if total response costs at the Site exceed $536 million. For parties paying the 200% premium, there is no such limitation on the U.S. EPA's covenant not to sue.

U.S. EPA will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed *de minimis* settlement.

A copy of the proposed Administrative Order on Consent may be obtained in person or by mail from Nancy H. Mueller (8HWM-SR), Enforcement Specialist, U.S. Environmental Protection Agency, Region VIII, 999 18th Street, Suite 500, Denver, Colorado 80202-2405. Additional background information relating to the *de minimis* settlement is available for review at the Superfund Records Center at the above address, and at the Aurora Central Public Library located at 14949 East Alameda Drive, Aurora, Colorado.

Martha Nicodemus,

Acting Regional Decision Officer, U.S. EPA, Region VIII.

[FR Doc. 92-27951 Filed 11-17-92; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL MARITIME COMMISSION

[Docket No. 91-24]

Actions To Adjust or Meet Conditions Unfavorable to Shipping in the United States/Korea Trade; Order To Show Cause

By separate document issued this date, the Federal Maritime Commission ("Commission" or "FMC") has promulgated a final rule in the above-captioned proceeding under section 19(1)(b) of the Merchant Marine Act, 1920, 46 U.S.C. app. 876(1)(b) ("section 19"), to address unfavorable conditions in the oceanborne trade ("Trade") between the United States and Korea. The Commission concluded that, despite an ongoing liberalization process undertaken by the Government of the Republic of Korea ("ROK"), unfavorable conditions within the meaning of section 19 exist in the Trade. The ROK intends to continue to restrict, until March 31, 1994, U.S.-flag carriers in the Trade from engaging in full, nationwide trucking operations in Korea.

The final rule fully adopted the sanctions set forth in a proposed rule issued in this proceeding on June 7, 1991. In response to the unfavorable conditions, a $100,000 per voyage fee will be assessed on transportation of cargo aboard vessels in the Trade of two Korean-flag carriers—Hanjin Shipping Company, Ltd. ("Hanjin") and Hyundai Merchant Marine Co., Ltd. ("Hyundai"). In the event that fees assessed are not paid, the final rule would suspend the FMC tariffs of the involved carrier. In recognition of the commitment to remove fully the trucking restrictions by March 1994, however, the sanctions provisions of the final rule will not become effective until June 1, 1994. That date may be advanced by further amendment by the Commission if circumstances so require. The Commission also imposed reporting requirements on U.S. and Korean-flag carriers, so that the Commission may remain apprised of developments and conditions in the Trade.

Since the issuance of the proposed rule, a third Korean-flag carrier, Cho Yang Line, has emerged as a prominent participant in the Trade. Journal of Commerce PIERS data, reported in the Journal of Commerce on September 11, 1992, page 5B, indicates that Cho Yang Line is now the 22nd largest carrier of TEUs moving through U.S. ports, with a 136% increase of cargoes in the past year alone. As a major Korean-flag carrier, active in the U.S./Korea Trade, there would appear to be no reason why Cho Yang Line should not be subject to the same potential sanctions as Hanjin and Hyundai. These two carriers have been designated for sanctions, consistent with the intent of section 19, on the basis of their status as carriers flying the flag of a country found to be imposing discriminatory restrictions of U.S. carriers in the Trade, and without facing similar obstacles in their operations in the United States. The Commission will therefore direct Cho Yang Line to show cause why it should not be made subject to the same reporting requirements and potential sanctions as Hanjin and Hyundai.

Therefore, it is ordered, That pursuant to sections 19(1)(b), (6), (9)(a) and (9)(d) of the Merchant Marine Act, 1920, Cho Yang Line show cause why the final rule in this proceeding should not be amended to make the sanctions and the reporting requirements contained in 46 CFR 586.5 applicable to Cho Yang Line;

It is further ordered, That the response of Cho Yang Line shall be provided in writing and filed with the Secretary of the Commission within 30 days of the service date of this Order; and

It is further ordered, That in the event that no timely response to this Order is received, the Commission's rules at 46 CFR 586.5 will be amended as indicated above.

By the Commission.

Ronald D. Murphy,

Assistant Secretary.

[FR Doc. 92-27888 Filed 11-17-92; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Agency Forms Under Review

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Notice.

SUMMARY: Notice is hereby given of the submission of proposed information collection(s) to the Office of Management and Budget (OMB) for its review and approval under the Paperwork Reduction Act and under OMB regulations on Controlling Paperwork Burdens on the Public. A copy of the proposed information collection and supporting documents is available from the agency clearance officer listed in the notice. Any comments on the proposal should be sent to the agency clearance officer and to the OMB desk officer in the notice.

DATES: Comments are welcome and should be submitted on or before December 21, 1992.

FOR FURTHER INFORMATION CONTACT:

Federal Reserve Board Clearance Officer—Mary M. McLaughlin—Division of Research and Statistics, Board of Governors of the Federal Reserve System, Washington, DC 20551 (202-452-3829)

OMB Desk Officer—Gary Waxman—Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, room 3208, Washington, DC 20503. (202-395-7340).

SUPPLEMENTARY INFORMATION:

Request for OMB Approval To Extend, With Minor Revision, the Following Report

1. *Report title:* Monthly consolidated Foreign Currency Report.

Agency form number: FFIEC 035.

OMB Docket number: 7100-0178.

Frequency: Monthly.

Reporters: U.S. banks and U.S. branches and agencies of foreign banks.

Annual reporting hours: 18,564.

Estimated average hours per response: 12.68.

Estimated number of respondents: 122.

Small businesses are not affected.

General description of report: This information collection is mandatory [12 U.S.C. 248(a) and 1844(c)] and is given confidential treatment.

Abstract: This report is needed to monitor the foreign exchange positions of major banking institutions and to detect changes in policy of individual banks. Also, the report is used as an aid in the analysis of foreign exchange markets. The proposed minor revisions include a change in the report date from the second Wednesday of each month, to the last business day of each month, effective with the January 1993 report. This proposed revision will facilitate broad market analysis in conjunction with the monthly Treasury Foreign Currency (TFC) report, and allow the Department of Treasury to exempt FFIEC 035 from the TFC report.

Board of Governors of the Federal Reserve System, November 10, 1992.

William W. Wiles,

Secretary of the Board.

[FR Doc. 92-27854 Filed 11-17-92; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention (CDC)

Hospital Infection Control Practices Advisory Committee; Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), the Centers for Disease Control and Prevention (CDC) announces the following committee meeting.

Name: Hospital Infection Control Practices Advisory Committee.

Times and dates: 8:30 a.m.-5 p.m., December 14, 1992; 8 a.m.-4 p.m., December 15, 1992.

Place: CDC, Auditorium A, 1600 Clifton Road, NE., Atlanta, GA 30333.

Status: Open to the public, limited only by the space available.

Purpose: The committee is charged with providing advice and guidance to the Director, CDC, and the Director, National Center for Infectious Disease (NCID), regarding the practice of hospital infection control and strategies for surveillance, prevention, and control of nosocomial infections in U.S. hospitals.

Matters to be discussed: This is the second meeting of the Hospital Infection Control Practices Advisory Committee. The agenda will include review of the proposed revision of the CDC Guideline for Prevention of Nosocomial Pneumonia, discussion of options and proposals for revision of the CDC Guideline for Isolation Precautions in Hospitals, discussion of options for inclusion in the revision of the CDC Guideline for Prevention of Intravascular Infections, and update on CDC activities of interest to the committee. Agenda items are subject to change as priorities dictate.

Contact person for additional information: Julia S. Garner, Nurse Consultant, Hospital Infections Program, NCID, CDC, 1600 Clifton Road, NE., Mailstop A-07, Atlanta, GA 30333, telephone (404) 639-1552.

Dated: November 12, 1992.

Elvin Hilyer,

Associate Director for Policy Coordination, Centers for Disease Control and Prevention (CDC).

[FR Doc. 92-27893 Filed 11-17-92; 8:45 am]

BILLING CODE 4160-18-M

Board of Scientific Counselors, National Center for Infectious Diseases: Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), the Centers for Disease Control and Prevention (CDC) announces the following committee meeting.

Name: Board of Scientific Counselors, National Center for Infectious Diseases (NCID)

Times and Dates: 10:30 a.m.-5:30 p.m., December 3, 1992. 8 a.m.-4 p.m., December 4, 1992.

Place: CDC, Auditorium B, 1600 Clifton Road, NE., Atlanta, Georgia 30333.

Status: Closed: 1:15 p.m.-3:30 p.m., December 4. All other portions open to the public, limited only by the space available.

Purpose: The Board of Scientific Counselors, NCID, provides advice and guidance to the Director, CDC, and Director NCID, in the following areas: Program goals and objectives; strategies; program organization and resources for infectious disease prevention and control; and program priorities.

Matters To Be Discussed: The agenda will focus on updates of the NCID Strategic Plan, internal program planning and review activities, infectious disease priorities, and action planning. Other agenda items include announcements; consideration of minutes of the May 11-12, 1992, meeting; a report from the Director, NCID; discussion of research initiatives; and future board activities.

The agenda will include presentations by community, state, and Federal representatives. Agenda items are subject to change as priorities dictate.

Beginning at 1:15 p.m. through 3:30 p.m., December 4, the board will discuss certain matters the public disclosure of which would constitute a violation of sections 552b(c)(2), 552b(c)(6), and 552b(c)(9)(B) of title 5 U.S. Code related to personal privacy. Therefore, pursuant to said provisions and the determination of the Director, CDC, this portion of the meeting will not be open to the public.

Written comments are welcome and should be received by the contact person listed below prior to the opening of the meeting.

Contact Person for More Information: Diane S. Holley, Office of the Director, NCID, CDC, Mailstop C-20, 1600 Clifton Road, NE., Atlanta, Georgia 30333, telephone 404/639-0078.

Dated: November 12, 1992.

Elvin Hilyer,

Associate Director for Policy Coordination, Centers for Disease Control and Prevention (CDC).

[FR Doc. 92-27892 Filed 11-17-92; 8:45 am]

BILLING CODE 4160-18-M

Food and Drug Administration

[Docket Nos. 87F-0389, 88F-0151, AND 89F-0042]

Pfizer Central Research, Pfizer, Inc.; Filing of Food Additive Petition; Amendment

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is amending the filing notices for three food additive petitions filed by Pfizer Central Research, Pfizer, Inc., that proposed to amend the food additive regulations to provide for the safe use of polydextrose as bulking agent/texturizer in peanut spread (FAP 7A3998), fruit spreads (FAP 8A4068) and sweet sauces, toppings, and syrups (FAP 9A4126), to include specifications incorporated by reference from "Food Chemicals Codex" for all uses of the additive.

FOR FURTHER INFORMATION CONTACT: Rosalie M. Angeles, Center for Food Safety and Applied Nutrition (HFF-334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-254-9515.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of January 26, 1988 (53 FR 2093) and corrected in the **Federal Register** of June 9, 1988 (53 FR 21729), FDA announced that a food additive petition (FAP 7A3998) had been filed by Pfizer Central Research, Pfizer, Inc., 235 East 42d St., New York, NY 10017, proposing that § 172.841 *Polydextrose* (21 CFR 172.841)

be amended to provide for the safe use of polydextrose in peanut spread. In another notice published in the Federal Register of May 26, 1988 (53 FR 19046), FDA announced that another food additive petition (FAP 8A4068) had been filed by the same company, proposing to amend the same regulation for the safe use of polydextrose in fruit spreads. Then, in a notice published in the Federal Register of March 15, 1989 (54 FR 10727), the agency announced that the same company had filed a third food additive petition (FAP 9A4126) proposing to amend the same regulation for the safe use of polydextrose in sweet sauces, toppings, and syrups.

In a letter dated August 13, 1992, the petitioner requested that the three petitions (FAP's 7A3998, 8A4068, and 9A4126) be amended to include specifications of the "Food Chemicals Codex" for all uses of polydextrose. Therefore, FDA is amending the filing notices of January 26 and of May 26, 1988, and of March 15, 1989, to state that the petitioner has requested that § 172.841 be amended to include, through incorporation by reference, specifications of the "Food Chemicals Codex," 3d ed. (1981), 2d supp., pp. 57 through 59, and 3d supp., p. 136.

The potential environmental impact of this action is being reviewed. If the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the Federal Register in accordance with 21 CFR 25.40(c).

Dated: October 19, 1992.

Fred R. Shank,

Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 92-27855 Filed 11-17-92; 8:45 am]

BILLING CODE 4160-01-F

DEPARTMENT OF THE INTERIOR

Guidelines for the Determination and Use of Public Interest Values in Land Acquisitions in Alaska.

AGENCY: Office of the Secretary, Interior.

ACTION: Notice of departmental policy.

SUMMARY: The Secretary of the Interior has issued a Departmental Policy Statement regarding the application of public interest values and the method of their determination in land acquisitions in Alaska. The Policy Statement clarifies the use of existing legislative authority to take public interest values into consideration in determining the compensation for lands being acquired by exchange. Policy guidance is issued in three respects:

(1) When sufficient public interest values are present on Alaska lands being acquired by the Department, the Secretary affirms the existing policy that the Interior Department may acquire these lands by means of an exchange of other lands with a higher market value. Where such unequal value exchanges are undertaken, clear and comprehensive written documentation must be provided that the overall public interest will thereby be served.

(2) The magnitude of public interest values will not be monetized through the calculation of dollar estimates of "existence values," unless specifically directed by law. The determination of the public interest will rely on the professional judgment of the involved conservation system unit land managing agency, realty officials, and the involved policy level Departmental officials.

(3) The level of compensation that reflects the presence of public interest values on lands being acquired must be determined through negotiations with land owners. The negotiated amount will fall somewhere in the range between the maximum willingness of the government to pay and the minimum acceptable amount to the land owner—an amount that cannot be determined in advance by analytical methods.

This Policy Statement will apply to land program activities of the National Park Service, Fish and Wildlife Service, and Bureau of Land Management only in Alaska.

EFFECTIVE DATE: November 18, 1992.

FOR FURTHER INFORMATION CONTACT: Director, Office of Program Analysis, Department of the Interior, MS 4412, Washington, DC 20240 (202) 208-5978.

SUPPLEMENTARY INFORMATION: Although the general practice of the Interior Department is to pay fair market value (as determined by an appraisal) for acquired lands, there have been departures from this practice in Alaska in the past. In some exchanges, the Department has given up lands appraised at a higher value to acquire lands appraised at a lower value. These exchanges have involved cases where the Department identified important environmental and other public interest values in the acquired lands that an appraisal of their market value would not capture.

In several laws Congress has granted the Secretary the discretion to undertake unequal value exchanges in Alaska where the public interests in the acquired lands are of such a magnitude as to warrant the exchange of lands with unequal market values. In 1976, the Alaska Native Claims Settlement Act (ANCSA) (Pub. L. 94-204) was amended to permit exchanges "for other than equal value" when the Secretary "determines it is in the public interest" to do so. Section 1302(h) of the Alaska National Interest Lands Conservation Act (ANILCA) (Pub. L. 96-487), enacted in 1980, contains similar language authorizing the Secretary of the Interior to exchange lands on other than an equal value basis when he "determines it is in the public interest to do so." Under these two Acts, the Secretary has the discretionary authority to undertake unequal value exchanges based on his conclusion that the overall public interest will be served.

More recently, Section 8126 of the 1992 Defense Appropriations Act (Pub. L. 102-172) directs the Secretary of the Interior to consider "public interest values"—in addition to standard appraisal estimates—in determining appropriate values that might be used as the basis for conveying Federal properties in exchange for lands owned by the Calista Corp. in Alaska. Section 8126 differs from previous legislation in that it requires the Secretary to consider the calculation of a dollar value as a means of determining the magnitude of the public interest values at stake.

Dated: November 12, 1992.

John E. Schrote,

Assistant Secretary, Policy, Management and Budget.

[FR Doc. 92-27859 Filed 11-17-92; 8:45 am]

BILLING CODE 4310-10-M

Fish and Wildlife Service

Notice of Receipt of Applications for Permit

The following applicants have applied for a permit to conduct certain activities with endangered species. This notice is provided pursuant to section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531, *et seq.*):

PRT-751762

Applicant: The Habitat Restoration Group, Watsonville, CA.

The applicant requests amendment and renewal of their current permit for authorization to live-trap and release the Santa Cruz long-toed salamander (*Ambystoma macrodactylum croceum*) in Northern Monterey County and Southern Santa Cruz County, CA, for biological survey purposes.

PRT–773803

Applicant: Zoological Society of San Diego, San Diego, CA.

The applicant requests a permit to export one female captive-born pigmy chimpanzee (*Pan paniscus*) to the Wilhelma Zoo, Stuttgart, Germany for captive breeding.

PRT–773754

Applicant: Joseph A. Susi, Wattsburg, PA.

The applicant requests a permit to import a sport-hunted trophy of one male bontebok (*Damaliscus dorcas dorcas*) culled from the captive herd maintained by Mr. Kock, Merriman, Republic of South Africa, for the purpose of enhancement of survival of the species.

PRT–772815

Applicant: Gregory L. Gibson, Terre Haute, IN.

The applicant requests a permit to import a sport-hunted trophy of one male bontebok (*Damaliscus dorcas dorcas*) culled from the captive herd maintained by Frank Bowker, "Thornkoof", Grahamstown, South Africa, for the purpose of enhancement of survival of the species.

Written data or comments should be submitted to the Director, U.S. Fish and Wildlife Service, Office of Management Authority, 4401 North Fairfax Drive, room 432, Arlington, Virginia 22203 and must be received by the Director within 30 days of the date of this publication.

Documents and other information submitted with these applications are available for review by any party who submits a written request for a copy of such documents to, or by appointment during normal business hours (7:45–4:15) in, the following office within 30 days of the date of publication of this notice: U.S. Fish and Wildlife Service, Office of Management Authority, 4401 North Fairfax Drive, room 432, Arlington, Virginia 22203. Phone: (703/358–2104); FAX: (703/358–2281)

Dated: November 12, 1992.

Susan Jacobsen,

Acting Chief, Branch of Permits, Office of Management Authority.

[FR Doc. 92–27858 Filed 11–17–92; 8:45 am]

BILLING CODE 4310–55–M

Availability of Proposed Aquatic Nuisance Species Program

AGENCY: U.S. Fish and Wildlife Service, Interior.

ACTION: Notice of document availability and public meetings; request for comments.

SUMMARY: This notice announces the availability of the proposed Aquatic Nuisance Species Program (Program) and a draft environmental assessment for public review and comment. Public meetings to explain the proposed Program and take comments are planned in several areas of the Nation were nonindigenous species are of particular concern. The proposed Program was prepared by the Aquatic Nuisance Species Task Force as required by section 1202 of the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990. Comments received will be considered in competing the final Program that will become the basis for Federal participation in cooperative responses to aquatic nuisance species.

DATES: Comments must be submitted to the address in **ADDRESSES** on or before January 4, 1993.

ADDRESSES: Requests for copies of and comments about the proposed Aquatic Nuisance Species Program or draft environmental assessment should be sent to Robert A. Peoples, U.S. Fish and Wildlife Service (820 ARLSQ), Department of the Interior, 1849 C Street NW., Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Robert A. Peoples at (703) 358–1718.

SUPPLEMENTARY INFORMATION: The rapidly spreading zebra mussel infestation and other concerns about aquatic nuisance species (ANS) resulted in enactment of the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 (Pub. L. 101–646, 16 U.S.C. 4701 *et seq.*). That law established an intergovernmental mechanism for the development of a cooperative national program to:

- Reduce the risk of or prevent the unintentional introduction and dispersal of nonindigenous aquatic species that may be nuisances;
- Ensure prompt detection of the presence of and monitor changes in the distribution of nonindigenous aquatic species; and
- Control established ANS.

Section 1201 of the Act created an Aquatic Nuisance Species Task Force (Task Force) to coordinate governmental efforts related to ANS. The Task Force is co-chaired by the U.S. Fish and Wildlife Service (FWS) and National Oceanic and Atmospheric Administration and presently includes seven Federal agencies and eight representatives of non-Federal governmental entities. A central responsibility of the Task Force is to develop and ensure the implementation of the Program.

At its April 1992 meeting, the Task Force approved a proposed Program for public review and comment. Consistent with statutory guidance, the proposed Program addresses the three previously stated goals and includes the mandated prevention, detection and monitoring, control, research, technical assistance and education elements and a zebra mussel program. Also discussed are related activities such as State ANS management plans, ballast water and shipping initiatives, and a biological study. Other requirements of the Act, including the Intentional Introductions Policy Review, listing of the zebra mussel as injurious wildlife, and development of a Brown Tree Snake Control Program, do not relate to the proposed Program and are being addressed independently.

Implementation of the proposed Program will be a cooperative effort with State, Tribal and local governments, non-governmental entities, and other countries. The objective is to complement effective existing nonindigenous species activities rather than supplant them. Although the Act assigns agency specific responsibilities to the Task Force, implementation will be assumed by individual entities in line with their basic mandates, expertise, priorities and funding. Potential participation by a variety of Federal agencies and other entities is suggested. The need for comprehensive, continuing evaluation of the effectiveness of the proposed Program is highlighted.

The FWS has prepared a draft environmental assessment on the proposed Program. Taking into consideration comments on the proposed Program and the environmental assessment, a determination will be made as to whether approval of the Program is a major Federal action significantly affecting the quality of the human environment within the meaning of section 102(2)(C) of the National Environmental Policy Act of 1969 (NEPA). The proposed Program is procedural and provides a national framework for cooperative actions. By itself, the proposed Program does not authorize specific actions to prevent the introduction, detect and monitor, control or study ANS. Specific actions to implement the proposed Program by the Task Force or Federal agencies would require compliance with NEPA, including preparation of separate environmental assessments or impact statements if required.

Six public meetings are planned during December 1992 to provide an opportunity for the Task Force to describe the proposed Program, respond to questions, and listen to comments. Meetings will be held in sections of the country where nonindigenous species are a significant concern, including in or near Baltimore, Maryland; Buffalo, New York; Duluth, Minnesota; Honolulu, Hawaii; San Francisco, California; and Tampa, Florida. In addition, an opportunity will be provided to comment on the proposed Program during the November 20, 1992, Task Force meeting in Ann Arbor, Michigan.

Specific dates, times and locations for the public meetings have yet to be established. When determined, newspapers in general circulation in the vicinity of each meeting site will be informed. This information can also be obtained by contacting the individual noted in **FOR FURTHER INFORMATION CONTACT.**

Dated: November 12, 1992.

Gary Edwards,

Co-Chair, Aquatic Nuisance Species Task Force.

[FR Doc. 92-27883 Filed 11-17-92; 8:45 am]

BILLING CODE 4310-55-M

Bureau of Indian Affairs

Training and Technical Assistance Grant and Planning Grant Programs

November 10, 1992.

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of availability of discretionary grant funds for federally recognized Indian tribes.

SUMMARY: The Bureau of Indian Affairs invites applications from Indian tribes within the contiguous 48 United States and Alaska, for two (2) separate grant programs. The purposes of these grant programs are: (1) To allow tribes to address governmental and/or program operational problems through technical assistance grants; and, (2) to monitor, contract, plan, design or redesign programs serving the tribe under a planning grant. Grant awards will be made on a competitive basis under criteria, terms, and conditions set forth in this announcement. Such grants are authorized by section 103 of the Indian Self-Determination and Education Assistance Act of 1975, Public Law 93-638, as amended by Public Law 100-472, Public Law 101-301 and Public Law 101-644. This notice is published in exercise of the authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM 8.I.

DATES: The closing date for submission of applications under this announcement is on or before January 19, 1993.

ADDRESSES: Applications should be sent to the appropriate Bureau of Indian Affairs Area Office listed below.

Aberdeen Area Office

Diane Turgeon, 115 4th Avenue SE., Aberdeen, SD 57401-4382, Telephone: (605) 226-7426

Albuquerque Area Office

Karen Foster, 615 1st Street NW., Box 265, Albuquerque, NM 87125-6567, Telephone: (505) 766-3172 or 766-2559

Anadarko Area Office

Terry Bruner, WCD Office Complex, Box 368, Anadarko, OK 73005-0368, Telephone: (405) 247-6673 ext. 209

Minneapolis Area Office

Stuart Mani, 331 South 2d Avenue, Minneapolis, MN 55401-2241, Telephone: (612) 373-1031

Muskogee Area Office

Edward L. Lowery, 675th & West Okmulgee, Muskogee, OK 74401-4898, Telephone: (918) 687-2447

Phoenix Area Office

Wilson Gillette, P.O. Box 10, Phoenix, AZ 85001-0010, Telephone: (602) 379-6760

Billings Area Office

Henry Graham, 316 North 26th Street, Billings, MT 59101, Telephone: (406) 657-6313

Eastern Area Office

Larry Blair, 3701 N. Fairfax Dr, MS-260-VA-SQ, Arlington, VA 22203, Telephone: (703) 235-2443

Juneau Area Office

Regina Parot, P.O. Box 25520, Juneau, AK 99802-5520, Telephone: (907) 586-7453

Portland Area Office

Timothy R. Brown, 911 NE, 11th Avenue, Portland, OR 97232-4169, Telephone: (503) 231-6702

Sacramento Area Office

Joan Burcell, 2800 Cottage Way, Sacramento, CA 95825-1884, Telephone: (916) 978-4690.

SUPPLEMENTARY INFORMATION:

A. Purpose of the Grant Programs

The purpose of the grant programs under this announcement is twofold: (1) to allow tribes to address needs and/or problem areas associated with governmental affairs, program administration and operations, and/or service delivery; and, (2) to permit to monitor, evaluate, plan and design or redesign the federal programs serving them.

Each of these grant initiatives has its own criteria and guidelines which are designed to accomplish specific objectives for a targeted subgroup of tribes. For instance, the criteria for training and technical assistance grants requires that the tribal applicants document specific needs and/or problems and devise step-by-step strategies to satisfy the needs or resolve the problems which are impediments to their growth. Using the same principle, criteria for planning grants were formulated to specify that these grants would be awarded to the most capable tribes. These are tribes not normally in need of strategical technical assistance since they generally have clean audits, operate mature contracts and have the reputation of administering "good" programs and service delivery systems. Tribes most capable of planning and operating programs may receive planning grants for comprehensive program planning, program redesign, as well as planning for reservation resources development.

To accomplish these ends, the Bureau of Indian Affairs announces the availability of up to $2.0 Million for the two (2) grant programs.

B. Training and Technical Assistance Grant Program

(1) Purpose of the Grant Program

The purpose of this grant program is to allow tribes to address needs and/or problems associated with governmental affairs, program administration and operations, and/or service delivery. Such grants will enable tribes to resolve present and past problems thereby permitting grantee tribes to improve conditions, advance their movement toward self-sufficiency, and to exercise a greater degree of self-determination in the operation of programs designed to benefit their membership and/or other resident Indian peoples.

(2) Eligibility Criteria

To receive a training and technical assistance grant, a tribe, including an authorized tribal organization, must be able to document and/or demonstrate its needs utilizing five (5) or more of the following identifying conditions or criteria:

(a) The current organization-wide, single audit report findings contain significant and/or material audit exceptions;

(b) Correspondence or other documentation that the tribe is not presently capable of withstanding an organization-wide single audit. This means that:

(i) The tribe's books or records are missing, incomplete or are not in reviewable condition and/or in a condition to sustain a full audit;

(ii) The tribe has not met specific audit requirements for a federal program it operates although the program is complete and an audit is due; and/or

(iii) The tribe has been notified it cannot receive an initial or continuation grant or contract from one (1) or more agencies due to outstanding audits and/or audit exceptions;

(c) The tribe has had debt collection notices and/or notification it cannot receive a grant or contract until an approved corrective action plan which has the potential to resolve current and/or past audit exceptions is formulated and is in place;

(d) The tribe is unable to accomplish current or past grant/contract objectives and/or is not capable of preparing successful grant/contract applications;

(e) The tribe is not able to operate properly under its management systems although the systems have been approved as satisfying regulatory requirements;

(f) The tribal government has little or no control over its various program operations, thus no control over service delivery, and cost overruns, etc.;

(g) The tribal government needs help but is in such a state it is unable to indicate the type or amount of assistance needed;

(h) The tribal government is experiencing serious internal strife and the tribe is paralyzed with political factionalism which results in the deterioration of its government as well as its program or service delivery systems.

(3) Continuation Grants

In cases where a continuation grant is requested, documentation of the prior years performance is an additional requirement. A continuation grant application must document that the applicant tribe has accomplished, or can demonstrate that it has made substantial progress toward accomplishing its prior year's grant objectives in order to receive a continuation grant. Prior year quarterly and annual progress and/or accomplishment reports must be submitted with the application for a continuation grant. To document continuing needs or problems, the applicant may furnish new Office of Management and Budget (OMB) Circular A–128 organization-wide single audit reports, OMB Circular A–123 internal control reviews, Area and/or Agency Office monitoring reports reflecting the existence of problems or poor program performance, and/or Office of the Inspector General (OIG) or General Accounting Office (GAO) reports. Further, evidence that one (1) or more federal agencies have initiated debt collection action against the applicant tribe and will not renew or award any new grants or contracts to the applicant tribe until the debt is cleared.

(4) Content of Application

Applications for a training and technical assistance grant must:

(a) Contain a current tribal council resolution which specifically authorizes the preparation of an application for a training and technical assistance grant.

(b) Contain a written commitment to use the training and technical assistance grant to address the needs and/or problems cited in the section B(2) of this announcement.

(c) Follow the application requirements set forth in Office of Management and Budget Circular A–102, Uniform Requirements for Assistance to State and Local Governments (The Common Rule), and as implemented within the Department of the Interior in 43 CFR part 12. Under part IV of Standard Form 424, Program Narrative Statement, applicants shall provide the following:

(i) A statement of specific needs and/or problems to be addressed under the proposed grant along with the documentation used to support the needs or problems statement; e.g., OMB Circular A–128 audit reports;

(ii) A description of how the grant funds will be used to overcome the problems or meet the needs which have been identified;

(iii) A schedule for the start and projected completion dates for actions or efforts to be taken to resolve problems or meet needs identified under the proposed grants;

(iv) A description of the personnel required, if any, to carry out grant activities and/or objectives; and provide position descriptions which include qualifications for education and experience;

(v) A line item budget, with narrative justification, to demonstrate how grant funds will be used to carry out the actions or efforts and achieve the goals and objectives of the proposed grant, and that costs associated with the grant application are reasonable, allowable and allocable to the program in terms of the cost principles found in OMB Circular A–87, Cost Principles for State and Local Governments.

(d) The applicant must indicate how other available resources such as tribal income, other Bureau grants or capacity building grants from other agencies will be committed to complement or support this effort.

(e) The applicant must make a written commitment to maintain the positive results expected from the grant.

(f) The applicant must certify that no elected tribal official will receive a salary or any other form of compensation from a grant under this announcement.

(g) If a tribe's application is prepared by an outside consultant, the application must indicate the role of the grant preparer to the tribe during the grant period; e.g., will the preparer be funded through the proceeds of the grant as a consultant, full-time employee, parttime employee, etc.

(h) The grantee must agree in its application to submit quarterly financial status and progress reports.

(i) The applicant must complete a Certification Regarding Drug-Free Workplace Requirements.

(j) No indirect cost funds shall be provided for grants under this announcement.

(5) Other Conditions

(a) Contain the vitae or resumes of project staff and/or third party technical assistance providers or, if the project staff and/or third party technical assistance providers have not been selected, a description of the qualifications and experience necessary for project staff and/or third party technical assistance providers to accomplish the tribe's grant objectives;

(b) A tribe making application for the purchase of third party technical assistance must agree to develop a plan for delivery of technical assistance which contains a schedule of activities and clearly indicates the person(s) responsible for carrying out each of the grant activities;

(c) Deviation or non-adherence to the technical assistance plan by the technical assistance provider can result in nonpayment to the technical assistance provider.

(d) The funds awarded under this announcement may be used as matching shares for any other federal or non-federal grant programs which contribute to the purposes for which these grants are made.

(6) Review, Rating, and Approval of Applications for Training and Technical Assistance Grants

An original and two (2) copies of the training and technical assistance grant application are to be submitted to the local Agency Office. Applications submitted in response to this announcement will be received, reviewed, and rated as follows:

(a) Application Review Process

(i) *Agency office responsibility.* Applications shall be submitted to the appropriate Agency Superintendent for review and comment. The Superintendent upon receipt of the application shall:

(A) Acknowledge, in writing, receipt of the application within five (5) calendar days of its arrival at the Agency office.

(B) Review the application for completeness of information and to insure that the application is consistent with the conditions set forth in Sections B(1) through B(5) of this announcement. Within ten (10) calendar days of its arrival in the Agency office, request any additional information which may be required to conduct a review of the application.

(C) If the application is sufficiently complete, forward it to tho- Area Director with comments and recommendations for approval or disapproval within fifteen (15) calendar days of its receipt.

(D) In instances where disapproval of an application is recommended, the Superintendent shall provide detailed reasons for the recommendation.

(ii) *Area office responsibility.* Upon receipt of the application the Area Director shall:

(A) Within fifteen (15) calendar days, conduct a review of each application for consistency with Sections B(1) through B(5) of this announcement. In this review the Area Director shall utilize the comments and recommendations from the Agency Superintendent.

(B) Exception in this application review process. An application for a technical assistance grant received from a tribe experiencing internal strife may be recommended for approval based on the Area Director's judgment that the applicant tribe is making a serious effort to resolve its internal problems. Further, it must be clearly documented in the application that the tribal factions will accept third party intervention in an attempt to resolve the problems causing the internal strife.

(b) Application Rating Process

(i) Upon completion of the application review process the Area Director shall rate each application based on the criteria set forth in Sections B(1) through B(5) of this announcement.

(ii) Applications shall be rated in accordance with the following guidelines:

Criteria	Points
(A) Need/Problem: the applicant can furnish documentation or demonstrate it has five (5) or more of the identifying conditions or criteria listed in section B (2) of the Training and Technical Assistance Grant program	(0–30)
(B) Work Statement: the application work plan describes in detail how it will meet the needs or overcome problems cited in criteria (A). The work plan also contains a schedule of activities, which if executed properly, will accomplish the goals and/or objectives of the grant	(0–30)
(C) Applicant Capability: the application contains the vitae or resumes of project staff and/or third party technical assistance providers or, if the project staff and/or third party technical assistance providers have not been selected, a description of the qualifications and experience necessary for project staff and/or third party technical assistance providers to accomplish the grant objectives	(0–15)
(D) Budget Justification: the application contains a line item budget with a separate narrative explaining each cost item and how such costs are reasonable	(0–10)
(E) Management or Self-Monitoring System: the application indicates how the grantee will monitor progress in achieving grant objectives and how corrective action will be taken, if necessary	(0–15)

(c) Application Approval Process

Upon completion of the application review and rating process the Area Director shall, within fifteen (15) calendar days, initiate one of the following actions:

(i) Approve the application for funding based on the Superintendent's recommendation and the Area Office review and rating process.

(ii) Disapprove the application based on the Area Office review and rating process. Notify the applicant by explanatory letter of the decision to disapprove the application, advising the applicant of its appeal rights.

(7) Schedule for the Receipt of Training/Technical Assistance Grant Applications

Area Offices are to formally notify Agency Offices and tribes that this program exists in FY 1992, immediately upon the receipt of this announcement. Area Offices shall provide copies of the grant criteria and all other pertinent information to all Agency Offices and tribes in an Area Office's jurisdiction.

(8) Submission of Applications for Training and Technical Assistance Grants

Applications submitted in response to this announcement must be:

(a) Postmarked no later than midnight January 19, 1993, if mailed;

(b) Received in the Agency office no later than the close of business January 19, 1993, if hand delivered.

(9) Appeals

Appeals of administrative actions by the Bureau of Indian Affairs on training/technical assistance grant applications are governed by Part 2 of 25 CFR.

C. Planning Grant Program

(1) Purpose of the Grant Program

To allow tribes to assume more control over programs designed to serve tribal populations, generally diminishing federal domination over programs serving Indians.

A planning grant may be used by a tribe to centralize or consolidate all of its administrative functions, to consolidate or integrate federal programs serving the tribe, as well as formulate short and long-range plans for reservation resources development.

(2) Eligibility Criteria

Tribes receiving planning grants must not only be capable of developing plans, they must also be capable of successfully implementing the plans.

(a) To receive a planning grant a tribe *must:*

(i) Survey or inform its reservation or community population that the tribe wishes to plan, and carry out such plans as may be developed, to make significant changes in its programs and its service delivery to Indian beneficiaries;

(ii) Have no significant or material audit exceptions noted in any and all current cost audits and/or the current OMB Circular A–128 organization-wide single audit report;

(iii) Administer mostly "mature" contracts; i.e., those meeting the definitions of "mature" as found in Public Law 93–638, as amended;

(iv) Have a history of operating or administering federal programs and services in a sound manner;

(v) Have a stable tribal government as evidenced by a tribe's not having made radical, unplanned changes in program direction which have resulted in the

diminishment of services to Indian beneficiaries and resulted in significant audit exceptions under criteria (ii), above;

(b) When a tribe is requesting a planning grant which encompasses activities identified as reservation resources development, the tribe must also satisfy one (1) or more of the following additional conditions:

(i) The tribe has successfully administered other developmental projects and has done so without governmental or political interference;

(ii) The tribe's plan reflects its willingness to accept guidance and assistance for the modification, if necessary, of its comprehensive development plans from subject matter experts; and/or

(iii) The tribe's plan reflects its willingness to accept monitoring and technical assistance as may be arranged by subject matter experts to ensure the best opportunity for success of the grant activity.

(3) Continuation Grants

In cases where a continuation grant is requested, documentation of the prior year's performance is an additional requirement. A continuation grant Application must document that the applicant tribe has accomplished, or is able to demonstrate that it has made substantial progress toward accomplishing, its prior year's grant objectives in order to receive consideration for approval of a continuation grant. Prior year quarterly and annual progress and/or accomplishment reports must be submitted with the application for a continuation grant.

(4) Application Content

Applications for a planning grant must:

(a) Follow the application requirements set forth in Office of Management and Budget Circular A–102, Uniform Requirements for Assistance to State and Local Governments (The Common Rule), as implemented within the Department of the Interior in 43 CFR part 12. Under part IV of Standard Form 424, Program Narrative Statement, the grant application must:

(i) Contain a current tribal council resolution which specifically authorizes the preparation of an application for a planning grant;

(ii) Contain a clear statement of the goals and objectives to be achieved through the proposed grant along with the rationale to support the goals and objectives proposed;

(iii) Contain a program narrative which describes, step-by-step how and by whom the goals and objectives of the grant project will be satisfied;

(iv) Contain the vitae or resumes of project staff and/or third party technical assistance providers or, if project staff and/or third party technical assistance providers have not been selected, a description of the qualifications and experience necessary for project staff and/or third party technical assistance providers to accomplish the grant objectives; and,

(v) A line item budget, with narrative justification, to demonstrate that costs associated with the grant application are reasonable, allowable and allocable to the program in terms of the cost principles found in OMB Circular A–87, Cost Principles for State and Local Governments.

(b) Contain a schedule for the start and projected completion dates for actions or efforts to be taken to meet the goals and objectives identified under the proposed grant.

(c) A description of the personnel required, if any, to carry out grant activities and/or objectives and provide position descriptions which include qualifications for education and experience.

(d) A detailed description of how grant funds will be used, if applicable, in coordination with, or to supplement, other Bureau grants and/or contracts or other capacity building grants from other agencies.

(e) The applicant must certify that no elected tribal official will receive a salary or any other form of compensation from a grant under this announcement.

(f) If a tribe's application is prepared by an outside consultant, the application must indicate the role of the grant preparer to the tribe during the grant period, e.g., will the preparer be funded through the proceeds of the grant as a consultant, full-time employee, part-time employee, etc.

(g) The grantee must agree in its application to submit quarterly financial status and progress reports.

(h) Progress and accomplishment reports for a prior year grant must be submitted with an application for a continuation grant which will be used for rating of the continuation grant applications, appropriations permitting, since subsequent grants will include performance as a criteria for grant renewal.

(i) The applicant must complete a Certification Regarding Drug-Free Workplace Requirements.

(j) No indirect cost funds shall be provided for grants under this announcement.

(5) Other Conditions

(a) A tribe's application for the purpose of planning must clearly outline a monitoring schedule for planning activities and clearly indicate the person(s) responsible for carrying out each of the grant activities;

(b) Deviation or non-adherence to the planning schedule by a technical assistance provider can result in nonpayment to the provider;

(c) The funds awarded under this announcement may be used as matching shares for any other federal or non-federal grant programs which contribute to the purposes for which these grants are made.

(6) Review, Rating and Approval of Application for Planning Grants

An original and two (2) copies of the planning grant application are to be submitted to the local Agency Office. Applications submitted in response to this announcement will be received, reviewed, and rated as follows:

(a) Application Review Process

(i) *Agency office responsibility.* Applications shall be submitted to the appropriate Agency Superintendent for review to determine if the application is consistent with the conditions set forth in sections C(1) through C(5) of this announcement. The Superintendent upon receipt of the application shall:

(A) Acknowledge, in writing, receipt of the application within five (5) calendar days of its arrival at the Agency office.

(B) Review the application for completeness of information and, within ten (10) calendar days of its arrival at the Agency office, request any additional information which may be required to conduct a review of the application.

(C) If the application is sufficiently complete, forward it to the Area Director with comments and recommendations for approval or disapproval within fifteen (15) calendar days of its receipt.

(D) In instances where disapproval of an application is recommended, the Superintendent shall provide detailed reasons for the recommendation.

(ii) *Area office responsibility.* Upon receipt of the application the Area Director shall within fifteen (15) calendar days, conduct a review of each application for consistency with sections C (1) through C (5) of this announcement. In this review the Area Director shall utilize the comments and recommendations from the Agency Superintendent.

(b) Application Rating Process

(i) Upon completion of the application review process the Area Director shall rate each application based on the criteria set forth in sections C (1) through C (5) of this announcement.

(ii) Applications shall be rated in accordance with the following guidelines:

Criteria	Points
(A) Eligibility: the applicant can document or demonstrate it meets the eligibility criteria in section C.2(a) and, if the application encompasses activities indentified as reservation resources development, at least one of the additional criteria in section C.2(b) of the Planning Grant program	(0–30)
(B) Work Statement: the application work plan describes in detail how it will achieve the goals and objectives specified in the proposed Planing Grant. The work plan also contains a schedule of activities, which if executed properly, will accomplish the objectives and/or goals of the proposed Planning Grant.	(0–30)
(C). Applicant Capability: the application contains the vitae or resumes of project staff and/or third party technical assistance providers or, if project staff and/or third party technical assistance providers have not been selected, a description of the qualifications and experience of project staff and/or third party technical assistance providers necessary to accomplish the grant objectives.	(0–15)
(D) Budget Justification : the application contains a line item budget with a separate narrative explaining each cost item and how such costs are reasonable.	(0–10)
(E) Management or Self-Monitoring System: the application indicates how the grantee will monitor progress in achieving grant objectives and how corrective action will be taken, it necessary.	(0–15)

(c) *Application Approval Process.* Upon completion of the application review and rating process the Area Director shall, within fifteen (15) calendar days, initiate one of the following actions:

(i) Approve the application for funding based on the Superintendent's recommendation and the Area Office review and rating process.

(ii) Disapprove the application based on the Area Office review and rating process. Notify the applicant by explanatory letter of the decision to disapprove the application, advising the applicant of its appeal rights.

(7) Schedule for the Receipt of Planning Grant Applications

Area Offices are to formally notify Agency Offices and tribes that this program exists in FY 1992, immediately upon the receipt of this announcement. Area Offices shall provide copies of the grant criteria and all other pertinent information to all Agency Offices and tribes in an Area Office's jurisdiction.

(8) Submission of Applications for Planning Grants

Applications submitted in response to this announcement must be:

(a) Postmarked no later than midnight January 19, 1993, if mailed;

(b) Received in the Agency office no later than the close of business January 19, 1993, if hand delivered.

Appeals

Appeals of administrative actions by the Bureau of Indian Affairs on planning grant applications are governed by part 2 of 25 CFR.

David J. Matheson,

Acting Assistant Secretary—Indian Affairs.

[FR Doc. 92–27931 Filed 11–17–92; 8:45 am]

BILLING CODE 4310–02–M

Tribal Consultation on Indian Education Topics

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of tribal consultation meetings.

SUMMARY: Notice is hereby given that the Bureau of Indian Affairs (BIA) will conduct consultation meetings to obtain oral and written comments concerning potential issues in Indian education programs. The potential issues which will be set forth in a tribal consultation booklet to be issued prior to the meetings are as follows:

1. Proposed Amendments to Public Law 100–297.
2. Education Facilities' Space Guidelines.
3. Full Inclusion of Children with Disabilities in Regular Program.
4. Americans with Disabilities Act.
5. Reauthorization of Elementary and Secondary Education Programs.
6. School Boundaries.
7. Off Reservation Boarding Schools.

DATES AND LOCATIONS: January 11, 13, 15, 1993, at locations listed below. All meetings will begin at 8 a.m. and continue until 3 p.m. (local time) on the dates scheduled.

MEETING DATES AND SITES:

January 11, 1993

Location, Local Contact and Telephone.

1. California, Riverside, Fayetta Babby, (916) 978–4680
2. New Mexico, Albuquerque, Val Cordova, (505) 766–3034
3. Minnesota, Minneapolis, Betty Walker, (612) 373–1090

January 13, 1993

1. Washington, Spokane, Van Peters, (503) 230–5682
2. New Mexico, Gallup, Larry Holman, (505) 786–6150
3. South Dakota, Aberdeen, Jim Davis, (701) 477–6471
4. Oklahoma, Oklahoma City, Jim Baker, (404) 945–6051

January 15, 1993

1. Alaska, Anchorage, Robert Pringle, (907) 271–4115
2. Arizona, Phoenix, Beverly Mestes, (602) 562–3557
3. Montana, Billings, Larry Parker, (406) 657–6375
4. Tennessee, Nashville, Lena Mills, (703) 235–3233

ADDRESS FOR WRITTEN COMMENTS: Written comments concerning consultation meeting items must be received no later than February 17, 1993. Comments should be mailed to the Bureau of Indian Affairs, Office of Indian Education Programs, MS–3530 MIB, 1849 C Street, NW., Washington, DC 20240, Attn: Dr. John Tippeconnic or, may be hand delivered to room 3510 at the same address.

FOR FURTHER INFORMATION CONTACT: Dr. John Tippeconnic or Dr. Jim Martin at the above address or telephone (202) 208–6123 or 208–3550.

SUPPLEMENTARY INFORMATION: The meetings are a follow-up to similar twice-a-year meetings begun by the BIA in 1990. The purpose of the consultation is, as required by 25 U.S.C. 2010(b), to provide Indian tribes, school boards, parents, Indian organizations and other interested parties with an opportunity to comment on potential issues raised during previous consultation meetings or being considered by the BIA regarding Indian education programs. A consultation booklet for the January meetings is being distributed to Federally recognized Indian tribes, Bureau Area and Agency Offices and Bureau-funded schools. The booklets will also be available from local contact persons and at each meeting.

Dated: November 10, 1992.

William D. Bettenberg,

Assistant Secretary, Indian Affairs.

[FR Doc. 92–27930 Filed 11–17–92; 8:45 am]

BILLING CODE 4310–02–M

Bureau of Land Management

[MT-060-4410-02]

Availability of Proposed Final Resource Management Plan/ Environmental Impact Statement; Montana

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: In accordance with section 202(f) of the Federal Land Policy and Management Act of 1976 and section 102(2)(C) of the National Environmental Policy Act of 1969, a proposed final Resource Management Plan/ Environmental Impact Statement (RMP/ EIS) has been prepared for the Judith, Valley, and Phillips Resource Areas. The RMP/EIS describes and analyzes future options for managing approximately 2.8 million surface acres and 3.4 million acres of mineral estate administered by the BLM in Valley, Phillips, Fergus, Petroleum, and Judith Basin Counties and that portion of Chouteau County south of the Missouri River.

PUBLIC PARTICIPATION: The draft RMP/ EIS was available for public review from July 12, 1991, to December 15, 1991. Written comments were received from agencies, organizations, and individuals. Oral comments were also recorded at two public meetings held in Lewistown and Malta, Montana. All comments provided were considered during the preparation of the proposed final RMP/ EIS.

Copies of the proposed final RMP/EIS are available for review in public libraries located throughout the planning area. Copies are also available from the Lewistown District Office, P.O. Box 1160, Lewistown, Montana 59457–1160, phone 406–538–7461. Public reading copies will be available for review at the following BLM locations:

Office of External Affairs, Main Interior Building, room 5600, 18th and C Streets, NW., Washington, DC 20240

External Affairs Office, Montana State Office, 222 North 32nd Street, Billings, Montana 59107

Lewistown District Office, Airport Road, P.O. Box 1160, Lewistown, Montana 59457–1160

Valley Resource Area, Route 1–4775, Glasgow, Montana 59230

Phillips Resource Area, 501 South Second Street, E Malta, Montana 59538.

All parts of the proposed plan may be protested. Protests should be sent to the Director (760), Bureau of Land Management, 18th and C Streets, NW., Washington, DC 20240, within the 30-day protest period starting November 27, 1992, and ending December 27, 1992. Protest statements should include the following information:

The name, mailing address, telephone number, and interest of the person filing the protest.

A statement of the issue or issues being protested.

A statement of the part or parts of the plan being protested.

A copy of all documents addressing the issue or issues that were submitted during the planning process or a reference to the date the issue or issues were discussed for the record.

A concise statement explaining why the BLM State Director's decision is believed to be incorrect.

At the end of the 30-day protest period, the BLM may issue a Record of responsible Decision approving implementation of any portions of the proposed plan not under protest. Approval will be withheld on any portion of the plan under protest, until the protest has been resolved.

FOR FURTHER INFORMATION CONTACT: Jerry Majerus, RMP/EIS Team Lead, Lewistown District Office, P.O. Box 1160, Lewistown, MT 59457–1160, 406–538–7461.

SUPPLEMENTARY INFORMATION: The proposed RMP/EIS analyzes five alternatives to resolve these nine issues: (1) Land acquisition and disposal; (2) access to BLM land; (3) off-road vehicle designations; (4) oil and gas leasing and development; (5) hardrock mining; (6) riparian and wetland management of watersheds; (7) elk and bighorn sheep habitat management; (8) prairie dog and black-footed ferret management; and (9) areas of critical environmental concern.

Each alternative represents a complete management plan for the area. The alternatives can be summarized as: (1) Current management or no action; (2) resource production; (3) resource protection; (4) a balance between production and protection; and (5) the preferred alternative.

The RMP/EIS examines the designation of six areas as areas of critical environmental concern (ACEC).

The Judith Mountains Scenic Area would be designated an ACEC to protect scenic, wildlife, and recreation values. The area would be managed to mitigate impacts to resources from surface-disturbing activities. The area would remain open to mineral entry. The area would be an avoidance area for rights-of-way, and off-road travel would be restricted yearlong to designated roads and trails. In addition, the area would be available for restricted management of forest products.

The Acid Shale-Pine Forest, in Petroleum County, would be designated an ACEC to protect an endemic plant community unique to the area and a fragile watershed. Disposal of forest products from the area would be prohibited, unless necessary for stand preservation, and off-road travel would be restricted yearlong to designated roads and trails.

The Square Butte Outstanding Natural Area would be designated an ACEC to protect natural endemic systems, cultural sites, scenic qualities, and rare geologic features unique to Montana. The BLM would pursue a protective withdrawal to segregate the area from mining claim location. The area would be withheld from oil and gas leasing, except for a 1/4-mile perimeter around the Butte. Surface-disturbing activities, including transmission lines, roads, communication sites, pipelines, and off-road travel would be prohibited.

Azure Cave, in the Little Rocky Mountains, would be designated an ACEC to protect cave resources and, potentially, the northernmost bat hibernaculum in the United States. The BLM would continue the withdrawal, which segregates the area from mining claim location, and the area would be closed to oil and gas leasing. Off-road travel would be restricted yearlong to designated roads and trails.

Big Bend, of the Milk River, would be designated an ACEC to protect archaeological resources representing bison hunting and prehistoric ceremonial use of the northwestern plains. The BLM would pursue a protective withdrawal to segregate the area from mining claim location and solid mineral leasables. Off-road travel would be restricted to designated roads and trails.

Prairie dog towns, within the black-footed ferret reintroduction area, would be designated an ACEC to protect habitat for the black-footed ferret. Powerline rights-of-way would be located to avoid prairie dog towns and discourage raptor perching.

Management prescriptions for these ACECs vary by alternative and are described in the RMP/EIS.

The RMP/EIS evaluates the eligibility of 187 rivers and streams, within the planning area, for further study as potential components of the National Wild and Scenic Rivers (NWSR) System. One segment of the Judith River was determined to be eligible and

classified as wild, but not suitable for inclusion in the NWSR System.

Public participation has occurred throughout the RMP process. A Notice of Intent was filed in the **Federal Register**, in September 1988. Since that time, several public meetings, mailings, and briefings were conducted to solicit comments and ideas. Any comments presented throughout the process have been considered.

This notice meets the requirements of 43 CFR 1610.7–2 for designation of ACECs and the requirements of the Final Revised USDI–USDA Guidelines for Eligibility, Classification, and Management of Rivers (47FR 39454).

Dated: November 6, 1992.

John A. Kwiatkowksi,

Deputy State Director, Division of Lands and Renewable Resources.

[FR Doc. 92–27915 Filed 11–17–92; 8:45 am]

BILLING CODE 4310-DN-M

[CA–010–03–4333–11]

Meeting of the Bakersfield District Advisory Council

AGENCY: Bureau of Land Management, Department of the Interior.

ACTION: Meeting of the Bakersfield District Advisory Council.

SUMMARY: Pursuant to the authorities in the Federal Advisory Committee Act (public law 92–463) and the Federal Land Policy and Management Act of 1976 (sec. 309), the Bureau of Land Management Bakersfield District Advisory Council will meet in Hollister, California.

DATES: December 10–11, 1992.

ADDRESSES: Meeting on Thursday, December 10, in the Hollister City Council Chambers, 375 5th Street, Hollister, from 8 a.m. to 4 p.m. Field trip on Friday, December 11, to the Clear Management Area in southern San Benito County. Field trip leaves from the Bureau of Land Management Hollister Resource Area Office, 20 Hamilton Court in Hollister, at 8 a.m.

SUPPLEMENTARY INFORMATION: The Bakersfield District Advisory Council is a 10 member council appointed by the Secretary of the Interior to give counsel and advice regarding planning and management of public lands resources to the District Manager of the Bureau of Land Management Bakersfield District. The Council will meet to discuss the management plan for the Clear Creek Management Area, a popular recreation site that is characterized by serpentine (naturally occurring asbestos) soils. There has been significant disturbance to the soil over the years because of extensive mining activity. The Environmental Protection Agency (EPA) has ordered a cleanup at one abandoned mine that is an EPA Superfund site, and his directed BLM to take precautions for the public health and welfare throughout the Clear Creek Management Area. The Hollister Resource Area is currently working on an amendment to the Resource Management Plan that would address EPA's concerns. The Advisory Council will hear testimony and make recommendations to the District Manager on how to proceed. The meeting is open to the public, and anyone wishing to address the Council about any public land issue may do so during the public comment period beginning at 1 p.m., December 10, 1992, or at any time during the meeting at the discretion of the Chairwoman. Written comments may be submitted to the address below. A field trip to the Clear Creek Management Area will take place on Friday, December 11, 1992. The public is welcome on the field trip. Be prepared to provide your own transportation, lunch and water.

FOR FURTHER INFORMATION CONTACT: Larry Mercer, Public Affairs Officer, Bureau of Land Management, Bakersfield District, 800 Truxtun Avenue, room 300, Bakersfield, CA 93301, telephone 805–861–4229.

Dated: November 6, 1992.

Pat Korp,

Associate District Manager.

[FR Doc. 92–27900 Filed 11–17–92; 8:45 am]

BILLING CODE 4310-40-M

Bureau of Indian Affairs

Indian Gaming; Assiniboine and Sioux Tribes

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of approved amendment to 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 Second Amendment to the April 6, 1992, Agreement Between the Assiniboine and Sioux Tribes of the Fort Peck Reservation and the State of Montana Concerning Video Keno, Poker and Bingo Games, Simulcast Racing and Other Class III Gaming, which was approved on June 24, 1992, and first amended on September 1, 1992.

DATES: November 18, 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, Bureau of Indian Affairs, Washington, DC 20240, (202) 208–3408.

SUPPLEMENTARY INFORMATION: This is to give notice of a change to the Tribal-State Compact between the Assiniboine and Sioux Tribes of the Fort Peck Reservation and the State of Montana, which was published as a notice in the **Federal Register** in 57 FR 29408 on July 1, 1992. The compact has been amended to include "Lottery Games" and notice of the First Amendment was published in the **Federal Register** in 57 FR 41048 on September 8, 1992. The compact has been further amended to delete verbiage in Article III, Sections A, B, and D, as well as, include "live keno and live poker" as a new Section E to Article V.

Dated: November 10, 1992.

David J. Matheson,

Acting Assistant Secretary-Indian Affairs.

[FR Doc. 92–27917 Filed 11–17–92; 8:45 am]

BILLING CODE 4310-02-M

Indian Gaming; Tunica-Biloxi Tribe

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 Compact for the Conduct of Class III Gaming Between the Tunica-Biloxi Indian Tribe of Louisiana and the State of Louisiana, which was enacted on September 23, 1992, and amended on November 11, 1992.

DATES: November 18, 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: November 10, 1992.

David J. Matheson,

Assistant Secretary-Indian Affairs.

[FR Doc. 92–27918 Filed 11–17–92; 8:45 am]

BILLING CODE 4310–02–M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–338]

Certain Bulk Bags and Process for Making Same; Commission Determination Not To Review an Initial Determination Amending the Commission's Notice of Investigation To Add a Respondent

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined not to review the presiding administrative law judge's initial determination (ID) in the above-captioned investigation granting a motion to amend the Commission's notice of investigation to add as a respondent Helios Container System, Inc. of Bloomingdale, Illinois.

ADDRESSES: Copies of the ID and all other nonconfidential documents filed in connection with this investigation are available for public inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone 202–205–2000.

FOR FURTHER INFORMATION CONTACT: Lyle B. Vander Schaaf, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone 202–205–3107. Hearing-impaired individuals are advised that information about this matter can be obtained by contacting the Commission's TDD terminal, 202–205–1810.

SUPPLEMENTARY INFORMATION: On May 21, 1992, Better Agricultural Goals and Super Sack Manufacturing Corporation (collectively "complainants") filed a complaint with the Commission alleging unfair acts in violation of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337). The unfair acts alleged in the complaint are the importation and sale of certain bulk bags that infringe claim 8 of U.S. Letters Patent 4,143,796 and claim 20 of U.S. Letters Patent 4,194,652. On June 5, 1992, complainants filed an amended complaint. On June 18, 1992, the Commission determined to institute an investigation of the complaint and published notice of its investigation in the **Federal Register** (57 FR 28185 (June 24, 1992).

On October 1, 1992, complainants filed a motion (Motion No. 332–7) to amend the notice of investigation to include as an additional respondent Helios Container Systems, Inc., of Bloomingdale, Illinois (Motion Docket No. 332–7). On October 13, 1992, the presiding administrative law judge issued an initial determination (Order No. 7) granting the motion to add Helios as a respondent. On October 20, 1992, Helios filed a petition for review of the administrative law judge's initial determination (ID). Complainants and the Commission investigative attorney opposed the petition. No agency comments were received.

This action is taken pursuant to section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and Commission interim rule 210.53 (19 CFR 210.53).

Issued: November 10, 1992.

By order of the Commission.

Paul R. Bardos,

Acting Secretary.

[FR Doc. 92–27937 Filed 11–17–92; 8:45 am]

BILLING CODE 7020–02–M

[Investigation No. 337–TA–342]

Certain Circuit Board Testers

Notice is hereby given that the prehearing conference in this matter will commence at 9 a.m. on December 7, 1992, in Courtroom C (room 217), U.S. International Trade Commission Building, 500 E St. SW., Washington, DC., and the hearing on temporary relief will commence immediately thereafter.

The Secretary shall publish this notice in the **Federal Register.**

Issued: November 12, 1992.

Janet D. Saxon,

Administrative Law Judge.

[FR Doc. 92–27939 Filed 11–17–92; 8:45 am]

BILLING CODE 7020–02–M

[Investigation Nos. 701–TA–302 and 731–TA–454 (Remand)]

Fresh and Chilled Atlantic Salmon From Norway; Remand Proceedings

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: The Commission hereby gives notice that the U.S. Court of International Trade (CIT) has remanded to the Commission its affirmative final determinations in the above-captioned investigations. Written comments concerning those issues that are the subject of the remand may be submitted by persons who were parties to the Commission's investigation in *Fresh and Chilled Atlantic Salmon from Norway*, Inv. Nos. 701–TA–302 and 731–TA–454 (Final), to the Commission no later than Friday, November 20 1992. The deadline for the Commission to report its remand determination to the court is December 22, 1992.

FOR FURTHER INFORMATION CONTACT: Robert G. Carpenter, Office of Investigations, or Marc A. Bernstein, Office of General Counsel, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436 telephone 202–205–3172 (Mr. Carpenter) or 202–205–3087 (Mr. Bernstein). Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–205–1810.

SUPPLEMENTARY INFORMATION: The Commission issued affirmative determinations in the above-captioned investigations on April 1, 1991. On October 23, 1992, the CIT issued a decision reversing and remanding these determinations on two grounds. First, the court directed the Commission to reconsider the significance of the 1990 decrease in the volume of the subject imports in light of: (1) The appreciation of the Norwegian kroner against the U.S. dollar during that period; (2) record evidence that the volume of Norwegian imports to the European Community increased during the same period notwithstanding the pendency of an antidumping investigation there; and (3) evidence indicating that the one Norwegian producer not subject to preliminary duties had a decrease in U.S. sales during the latter part of 1990. Second, the court directed the Commission to demonstrate that its determination is based on the impact of the imports at the time the Commission originally issued its final determinations.

Persons who were parties to the original Commission final investigations, and only such persons, may file comments in this remand proceeding no later than November 20, 1992. Any such written comments should be filed in accordance with Commission rule 201.8, 19 CFR 201.8, and may not exceed fifteen (15) double-spaced, typewritten pages. Comments must be accompanied by a certificate of service indicating that copies of the comments were served on all other parties of record in accordance

with Commission rule 201.16(b), 19 CFR 201.16(b).

Comments may address the two issues referenced above that are the subject of the CIT remand order. Comments on other aspects of the Commission's final determination will not be considered. During the remand proceeding, the Commission will only examine information contained in the administrative record compiled in the original investigation. Comments may not include any new data or information.

Dated: November 12, 1992.

By order of the Commission.

Paul R. Bardos,

Acting Secretary.

[FR Doc. 92-27940 Filed 11-17-92; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-337]

Certain Integrated Circuit Telecommunication Chips and Products Contains Same, Including Dialing Apparatus; Commission Determination Not To Review an Initial Determination Extending by Thirty Days the Deadline for Filing the Presiding Administrative Law Judge's Final Initial Determination; Setting of New Administrative Deadline

AGENCY: International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined not to review an initial determination (ID) issued by the presiding administrative law judge (ALJ) designating the above-captioned investigation "more complicated" for a second time and extending by 30 days the deadline by which the ALJ must file his final ID. The Commission has also extended the administrative deadline for completion of the investigation by 30 days, *i.e.*, from May 10, 1993, to June 9, 1993.

FOR FURTHER INFORMATION CONTACT: Tim Yaworski, Esq., Office of the General Counsel U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436; telephone: (202) 205-3096. Hearing-impaired persons are advised that information on this investigation can be obtained by contacting the Commission's TDD terminal on (202) 205-1810.

SUPPLEMENTARY INFORMATION: On October 8, 1992, respondents Hualon Microelectronics Corporation (Taiwan), Hualon Microelectronics Corporation (California), and United Microelectronics Corporation (collectively "respondents") filed a joint motion to designate this investigation "more complicated" and extend it by a further three months. The motion was supported by the Commission investigative attorney, but opposed by complainant SGS-Thomson Microelectronics, Inc. The presiding ALJ issued an ID on October 14, 1992, designating the investigation "more complicated" for a second time and extending the deadline for issuance of this final ID by 30 days. The investigation was again designated "more complicated" because of the discovery, shortly before the discovery cut-off date, of documents which could lead to admissible evidence that could be decisive on the patent issues raised in the investigation.

The Commission determined that it is unnecessary to designate the investigation "more complicated" for a second time in order to extend further the ALJ's deadline for issuing his final ID.

This action is taken under the authority of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) and section 210.53 of the Commission's Interim Rules of Practice and Procedure (19 CFR 210.53).

By order of the Commission.

Issued: November 9, 1992.

Paul R. Bardos,

Acting Secretary.

[FR Doc. 92-27935 Filed 11-17-92; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-343]

Investigation

In the Matter of Certain Mechanical Gear Couplings and Components Thereof.

AGENCY: U.S. International Trade Commission.

ACTION: Institution of investigation pursuant to 19 U.S.C. 1337.

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on October 14, 1992, under section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, on behalf of Kop-Flex, Inc., Post Office Box 1696, Baltimore, Maryland 21203. An amended complaint was filed on November 2, 1992, and a supplement was filed on November 5, 1992. The complaint, as amended and supplemented, alleges a violation of section 337 based upon the importation into the United States, the sale for importation, and the sale within the United States after importation of certain mechanical gear couplings and components thereof by reason of alleged misappropriation of confidential information and trade secrets, the threat or effect of which is to destroy or substantially injure an industry in the United States.

The complainant requests that the Commission institute an investigation and, after a full investigation, issue permanent cease and desist orders.

ADDRESSES: The complaint, except for any confidential information contained therein, is available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., room 112, Washington, DC 20436, telephone 202-205-1802. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202-205-1810.

FOR FURTHER INFORMATION CONTACT: Jeffrey R. Whieldon, Esq., Office of Unfair Import Investigations, U.S. International Trade Commission, telephone 202-205-2580.

Authority: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930, as amended, and in § 210.12 of the Commission's Interim Rules of Practice and Procedure, 19 CFR 210.12.

SCOPE OF INVESTIGATION: Having considered the complaint, the U.S. International Trade Commission, of November 12, 1992.

Ordered That—

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended, an investigation be instituted to determine whether there is a violation of subsection (a)(1)(A) of section 337 in the importation into the United States, or in the sale, of certain mechanical gear couplings and components thereof, by reason of alleged misappropriation of trade secrets, the threat or effect of which is to destroy or substantially injure an industry in the United States.

(2) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainant is—Kop-Flex, Inc., P.O. Box 1696, Baltimore, Maryland 21203.

(b) The respondents are the following companies alleged to be in violation of section 337, and are the parties upon which the compliant is to be served:

K-Power Products, Inc., Post Office Box 220, 623 South Service Road West, Grimsby, Ontario L3M 4G3, Canada.

A.R. Hutchings, President, K-Power Products, Inc., Post Office Box 220, 623 South Service Road West, Grimsby, Ontario L3M 4G3, Canada.

(c) Jeffrey R. Whieldon, Esq., Office of Unfair Import Investigations, U.S. International Trade Commission, 500 E Street, SW., room 401H, Washington, DC 20436, shall be the Commission investigative attorney, party to this investigation; and

(3) For the investigation so instituted, Janet D. Saxon, Chief Administrative Law Judge, U.S. International Trade Commission, shall designate the presiding Administrative Law Judge.

Responses to the complaint and the notice of investigation must be submitted by the named respondents in accordance with § 210.21 of the Commission's Interim Rules of Practice and Procedure, 19 CFR 210.21. Pursuant to 201.16(d) and 210.21(a) of the Commission's Rule, 19 CFR 201.16(d) and 210.21(a), such responses will be considered by the Commission if received not later than 20 days after the date of service of the compliant and notice of investigation. Extensions of time for submitting responses to the complaint and notice of investigation will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the compliant and this notice, and to authorize the administrative law judge and the Commission, without further notice to the respondent, to find the facts to be as alleged in the compliant and this notice, and to enter both an initial determination and a final determination containing such findings, and may result in the issuance of a limited exclusion order, or a cease and desist order, or both, directed against such respondent.

Issued: November 13, 1992.

By order of the Commission.

Paul R. Bardos,

Acting Secretary.

[FR Doc. 92-27941 Filed 11-17-92; 8:45 am]

BILLING CODE 7020-02-M

[Investigation Nos. 337-TA-331 and 337-TA-334]

Certain Microcomputer Memory Controllers, Components Thereof and Products and Containing Same and Certain Condensers, Parts Thereof and Products Containing Same, Including Air Conditioners for Automobiles; Commission Hearing

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the Commission has determined to hold a public hearing in the above-captioned investigations to allow parties and other interested persons to present their views concerning the provisions in the administrative protective orders ("APOs") governing retention of documents containing confidential business information ("CBI") that the Commission has been asked to review.

FOR FURTHER INFORMATION CONTACT: Abigail A. Shaine, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436; telephone: (202)-205-3094. Copies of all nonconfidential documents filed in connection with these investigations are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436; telephone: (202)-205-2000. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal at (202)-205-1810.

SUPPLEMENTARY INFORMATION: On October 23, 1991, Chief Administrative Law Judge Janet D. Saxon ("ALJ") issued an APO in Certain Microcomputer Memory Controllers, Components Thereof and Products Containing Same ("Memory Controllers"), Inv. No. 337-TA-331, which includes provisions that authorize retention of all materials containing CBI until the expiration of any remedy imposed by the Commission, as well as the indefinite retention of documents containing CBI if the documents were created by the Commission, the ALJ, or counsel. Specifically, the APO provisions at issue in each investigation authorize counsel for the parties who are subject to the protective order to (i) Retain all materials containing CBI until the termination of the investigation (which is defined in the APOs as the date on which all appeals have been exhausted, or the date on which any Commission remedy expires, whichever is later); and (ii) retain indefinitely certain materials containing CBI, such as working papers, briefs, and other documents, prepared by the Commission, the ALJ, and counsel.

The Office of Unfair Import Investigations ("OUII") filed a motion requesting certification of the APO provisions to the Commission for interlocutory review. OUII stated in its motion that it sought interlocutory review to permit the Commission to fully address any policy concerns raised by these APO provisions. Judge Saxon granted this motion on October 30, 1991. On November 7, 1991, OUII filed an application for interlocutory review of the document retention provisions of the APO. With the Commission's permission, the ITC Trial Lawyers Association ("ITCTLA") filed a brief *amicus criae* with respect to the issues presented by the requested interlocutory appeal.

On February 10, 1992, Judge Saxon issued an APO in Certain Condensers, Parts Thereof and Products Containing Same, Including AIr Conditioners for Automobiles ("Condensers"), Inv. No. 337-TA-334, which includes provisions concerning the retention of documents containing CBI that are virtually identical to those contained in the APO issued in Memory Controllers. OUII again filed a motion requesting certification of the protective order for interlocutory review. The ALJ granted this motion on March 6, 1992. On March 16, 1992, OUII filed an application with the Commission for interlocutory review of the document retention provisions of the APO.

Commission Hearing

The Commission will hold a public hearing on December 17, 1992, in the Commission's main hearing room, 500 E Street, SW., Washington, DC, 20436, beginning at 10 a.m. The purpose of the hearing is to address the issues concerning retention of CBI by counsel provided for in the APOs in the aforementioned section 337 investigations.

Witness statements, briefs, and other written submissions addressing the issues outlined below must be filed with the Commission on or before December 11, 1992.

Because the APOs at issue, unless modified, provide for permanent retention by counsel of CBI contained in certain documents, the APOs themselves would be in force in perpetuity. The Commission seeks comment from both parties and nonparties addressing the question of whether the Commission should retain jurisdiction indefinitely to enforce such APOs after termination of the investigation. The Commission also seeks comment concerning whether the safeguards that such Commission enforcement of an APO would provide could be equally well provided by some other means, *e.g.*, resort to a bar association or a court to settle questions of possible breaches to impose appropriate sanctions.

The Commission also seeks comment concerning measures by which the Commission could monitor continued

protection of CBI by counsel if the Commission were to undertake the responsibility for continued enforcement of APOs after termination of an investigation.

With respect to nonparty information, the Commission seeks comments regarding how often CBI obtained from a nonparty is critical to the outcome of a section 337 investigation, or to the enforcement of section 337 remedial orders. If such information is rarely critical to the outcome of an investigation or to the enforcement of a remedial order, the Commission seeks comments concerning the question of why, apart from convenience, parties should be able to retain nonparty CBI even over the objection of a nonparty. The Commission also seeks comments regarding the option of making the administrative law judge responsible for making the final determination, based on the facts and circumstances of each case, whether parties should be able to retain a nonparty's CBI until the expiration of any remedy, even if the nonparty objects to retention of its CBI by counsel for the parties.

The Commission also invites comments on any other aspects of these APO provisions which the parties or other interested persons wish to address.

Order and Time Limits

The order and time limits for parties' presentations shall be as follows:

- Private parties to the investigations—10 minutes per party
- Commission investigative attorneys (taken together)—15 minutes
- Other interested persons—7 minutes per person

These time limits shall be exclusive of the time consumed by questioning by the Commission. The private parties to the investigations and the Commission investigative attorneys may set aside part of their time for rebuttal. During the course of the hearing, parties and nonparties may be asked to file posthearing submissions.

Notice of Appearance

Written requests to appear at the Commission hearing must be filed with the Office of the Secretary by December 10, 1992. The Commission anticipates that the hearing will be open to the public. Any requests for closure of a portion of the hearing must demonstrate good cause and must be filed together with a request to appear at the hearing.

Authority: This action is taken pursuant to section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and Commission interim rule 210.70 (19 CFR 210.70).

By order of the Commission.
Issued: November 13, 1992

Paul R. Bardos,
Acting Secretary.

[FR Doc. 92-27946 Filed 11-17-92; 8:45 am]
BILLING CODE 7020-02-M

[Investigations Nos. 731-TA-546 and 547 (Final)]

Steel Wire Rope From the Republic of Korea and Mexico

AGENCY: United States International Trade Commission.

ACTION: Institution and scheduling of final antidumping investigations.

SUMMARY: The Commission hereby gives notice of the institution of final antidumping investigations Nos. 731-TA-546 and 547 (Final) under section 735(b) of the Tariff Act of 1930 (19 U.S.C. 1673d(b)) (the Act) to determine whether an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from the Republic of Korea and Mexico of steel wire rope,[2] provided for in subheading 7312.10.90 of the Harmonized Tariff Schedule of the United States.

For further information concerning the conduct of these investigations, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A and C (19 CFR part 207).

EFFECTIVE DATE: September 28, 1992.

FOR FURTHER INFORMATION CONTACT: Janine Wedel (202-205-3178), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202-205-1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202-205-2000.

SUPPLEMENTARY INFORMATION:

Background

These investigations are being instituted as a result of affirmative preliminary determinations by the Department of Commerce that imports of steel wire rope from the Republic of Korea and Mexico are being sold in the United States at less than fair value within the meaning of section 733 of the Act (19 U.S.C. 1673b). The investigations were requested in a petition filed on April 9, 1992, on behalf of the Committee of Domestic Steel Wire Rope and Specialty Cable Manufacturers.

Participation in the Investigations and Public Service List

Persons wishing to participate in the investigations as parties must file an entry of appearance with the Secretary to the Commission, as provided in § 201.11 of the Commission's rules, not later than twenty-one (21) days after publication of this notice in the **Federal Register**. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to these investigations upon the expiration of the period for filing entries of appearance.

Limited Disclosure of Business Proprietary Information (BPI) Under an Administrative Protective Order (APO) and BPI Service List

Pursuant to § 207.7(a) of the Commission's rules the Secretary will make BPI gathered in these final investigations available to authorized applicants under the APO issued in the investigations, provided that the application is made not later than twenty-one (21) days after the publication of this notice in the **Federal Register**. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Staff Report

The prehearing staff report in these investigations will be placed in the nonpublic record on January 22, 1993, and a public version will be issued thereafter, pursuant to § 207.21 of the Commission's rules.

Hearing

The Commission will hold a hearing in connection with these investigations beginning at 9:30 a.m. on February 19, 1993, at the U.S. International Trade

[2] The imported products covered by these investigations encompass ropes, cables, and cordage of iron or carbon steel, other than stranded wire, not fitted with fittings or made up into articles, and not made up of brass plated wire. Imports of these products are covered by statistical reporting numbers 7312.10.9030, 7312.10.9060, and 7312.10.9090 of the Harmonized Tariff Schedule of the United States (HTS). Excluded from the imports covered by these investigations is stainless steel wire rope, i.e., ropes, cables, and cordage other than strandard wire, of stainless steel, not fitted with fittings or made up into articles, provided for in HTS subheading 7312.10.60. Although HTS subheadings and statistical reporting numbers are provided for convenience and customs purposes, the written description of the imported products covered by these investigations is dispositive.

Commission Building. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission on or before February 12, 1993. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the hearing. All parties and nonparties desiring to appear at the hearing and make oral presentations should attend a prehearing conference to be held at 9:30 a.m. on February 17, 1993, at the U.S. International Trade Commission Building. Oral testimony and written materials to be submitted at the public hearing are governed by §§ 201.6(b)(2), 201.13(f), and 207.23(b) of the Commission's rules.

Written Submissions

Each party is encouraged to submit a prehearing brief to the Commission. Prehearing briefs must conform with the provisions of § 207.22 of the Commission's rules; the deadline for filing is February 16, 1993. Parties may also file written testimony in connection with their presentation at the hearing, as provided in § 207.23(b) of the Commission's rules, and posthearing briefs, which must conform with the provisions of § 207.24 of the Commission's rules. The deadline for filing posthearing briefs is February 24, 1993; witness testimony must be filed no later than three (3) days before the hearing. In addition, any person who has not entered an appearance as a party to the investigations may submit a written statement of information pertinent to the subject of the investigations on or before February 24, 1993. All written submissions must conform with the provisions of § 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of §§ 201.6, 207.3, and 207.7 of the Commission's rules.

In accordance with §§ 201.16(c) and 207.3 of the rules, each document filed by a party to the investigations must be served on all other parties to the investigations (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: These investigations are being conducted under authority of the Tariff Act of 1930, title VII. This notice is published pursuant to § 207.20 of the Commission's rules.

By order of the Commission.

Issued: November 12, 1992.

Paul R. Bardos,

Acting Secretary.

[FR Doc. 92-27938 Filed 11-17-92; 8:45 am]

BILLING CODE 7020-02-M

[Investigations Nos. 701-TA-318 (Final) and 731-TA-560 and 561 (Final)]

Sulfanilic Acid From the Republic of Hungary and India

AGENCY: United States International Trade Commission.

ACTION: Institution and scheduling of final antidumping investigations and scheduling of the ongoing countervailing duty investigation.

SUMMARY: The Commission hereby gives notice of the institution of final antidumping investigations Nos. 731-TA-560 and 561 (Final) under section 735(b) of the Tariff Act of 1930 (19 U.S.C. 1673d(b)) (the Act) to determine whether an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from the Republic of Hungary (Hungary) and India of sulfanilic acid and sodium sulfanilate,[1] provided for in subheadings 2921.42.24 and 2921.42.70 of the Harmonized Tariff Schedule of the United States. The Commission also gives notice of the schedule to be followed in these antidumping investigations and the ongoing countervailing duty investigation regarding imports of sulfanilic acid from India (inv. No. 701-TA-318 (Final)), which the Commission instituted effective August 18, 1992 (57 FR 40201, September 2, 1992). The schedules for the subject investigations will be identical, pursuant to Commerce's alignment of its final subsidy and dumping determinations (57 FR 38485, August 25, 1992).

For further information concerning the conduct of these investigations, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A and C (19 CFR part 207).

EFFECTIVE DATE: October 22, 1992.

FOR FURTHER INFORMATION CONTACT: Debra Baker (202-205-3180), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202-205-1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202-205-2000.

SUPPLEMENTARY INFORMATION:

Background

The subject antidumping investigations are being instituted as a result of affirmative preliminary determinations by the Department of Commerce that imports of sulfanilic acid from Hungary and India are being sold in the United States at less than fair value within the meaning of section 733 of the Act (19 U.S.C. 1673b). The Commission instituted the subject countervailing duty investigation on August 18, 1992 (57 FR 40201, September 2, 1992). The antidumping and countervailing duty investigations were requested in a petition filed on May 8, 1992, by R-M Industries, Inc., Fort Mill, SC.

Participation in the Investigations and Public Service List

Any person having already filed an entry of appearance in the countervailing duty investigation is considered a party in the antidumping investigations. Any other persons wishing to participate in the investigations as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11 of the Commission's rules, not later than twenty-one (21) days after publication of this notice in the **Federal Register**. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to the investigations upon the expiration of the period for filing entries of appearance.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and BPI service list.—Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in these final investigations available to authorized applicants under the APO issued in the investigations, provided that the application is made not later than twenty-one (21) days after the publication of this notice in the **Federal Register**. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Staff report.—The prehearing staff report in these investigations will be

[1] The products covered by these investigations are all grades of sulfanilic acid, which include technical (or crude) sulfanilic acid, refined (or purified) sulfanilic acid, and sodium salt of sulfanilic acid (sodium sulfanilate).

placed in the nonpublic record on December 21, 1992, and a public version will be issued thereafter, pursuant to section 207.21 of the Commission's rules.

Hearing.—The Commission will hold a hearing in connection with these investigations beginning at 9:30 a.m. on January 5, 1993, at the U.S. International Trade Commission Building. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission on or before December 28, 1992. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the hearing. All parties and nonparties desiring to appear at the hearing and make oral presentations should attend a prehearing conference to be held at 9:30 a.m. on December 30, 1992, at the U.S. International Trade Commission Building. Oral testimony and written materials to be submitted at the public hearing are governed by sections 201.6(b)(2), 201.13(f), and 207.23(b) of the Commission's rules.

Written submissions.—Each party is encouraged to submit a prehearing brief to the Commission. Prehearing briefs must conform with the provisions of section 207.22 of the Commission's rules; the deadline for filing is December 29, 1992. Parties may also file written testimony in connection with their presentation at the hearing, as provided in section 207.23(b) of the Commission's rules, and posthearing briefs, which must conform with the provisions of section 207.24 of the Commission's rules. The deadline for filing posthearing briefs is January 13, 1993; witness testimony must be filed no later than three (3) days before the hearing. In addition, any person who has not entered an appearance as a party to the investigations may submit a written statement of information pertinent to the subject of the investigations on or before January 13, 1993. All written submissions must conform with the provisions of section 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules.

In accordance with sections 201.16(c) and 207.3 of the rules, each document filed by a party to the investigations must be served on all other parties to the investigations (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: These investigations are being conducted under authority of the Tariff Act of 1930, title VII. This notice is published pursuant to section 207.20 of the Commission's rules.

Issued: November 9, 1992.

By order of the Commission.

Paul R. Bardos,

Acting Secretary.

[FR Doc. 92-27936 Filed 11-17-92; 8:45 am]

BILLING CODE 7020-02-M

INTERSTATE COMMERCE COMMISSION

Appointment of Agents to Require Emergency Routings of Amtrak Passenger Trains

Section 402(c) of the Rail Passenger Service Act of 1970 (45 U.S.C. 562(c)) requires the Commission to take emergency actions pertaining to the use by the National Railroad Passenger Corporation (AMTRAK) of the tracks and facilities of other railroads.

Under certain emergency conditions the necessity for immediate action may be such as to require determination and action by a single individual as opposed to the time required to convene the Commission to receive and act upon an application from Amtrak for an emergency order to continue the movement of its trains.

It is Ordered,

Appointment of Agents to Require Emergency Routings of Amtrak Trains

(a) Bernard Gaillard, Director; William J. Love, Associate Director, and [1] Charles E. Wagner, Deputy Director, Office of Compliance and Consumer Assistance, Interstate Commerce Commission, Washington, DC, are hereby appointed Agents of the Interstate Commerce Commission and vested with authority to issue emergency orders requiring a railroad immediately to make its tracks and other facilities available to Amtrak for the operation of its passenger trains.

(b) *Effective date.* This order shall become effective at 12:01 a.m., November 16, 1992.

This action is taken under the authority of 49 U.S.C. 10305 and 45 U.S.C. 562(c).

Decided: November 10, 1992.

By the Commission, Chairman Philbin, Vice Chairman McDonald, Commissioners Simmons, Phillips, and Emmett.

[1] Change in designated Agent.

Commissioner Emmett did not participate in the disposition of this proceeding.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 92-27957 Filed 11-17-92; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-3 (Sub-No. 106X)]

Missouri Pacific Railroad Company—Abandonment Exemption—in Dallas County, TX

Missouri Pacific Railroad Company (MP) has filed a notice of exemption under 49 CFR 1152 subpart F—*Exempt Abandonments* to abandon its 3.0-mile line of railroad, consisting of a portion of the Greenville Branch between milepost 763.0 and milepost 766.0, near Deny, in Dallas County, TX.

MP has certified that: (1) No local traffice has moved over the line for at least 2 years; (2) any overhead traffic on the line can be rerouted over other lines; (3) no formal complaint filed by a user of rail service on the line (or by a State or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Commission or with any U.S. District Court or has been decided in favor of the complainant within the 2-year period; and (4) that the requirements at 49 CFR 1105.12 (newspaper publication) and 49 CFR 1152.50 (d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the abandonment shall be protected under *Oregon Short Line R. Co.—Abandonment—Goshen,* 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10505(d) must be filed.

This exemption will be effective on December 18, 1992, unless stayed or a formal expression of intent to file an offer of financial assistance (OFA) is filed. Petitions to stay that do not involve environmental issues,[1] formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),[2] and trail

[1] A stay will be issued routinely where an informed decision on environmental issues, whether raised by a party or by the Commission's Section of Energy and Environment (SEE), cannot be made before the effective date of the notice of exemption. See *Exemption of Out-of-Service Rail Lines,* 5 I.C.C. 2d 377 (1989). Any entity seeking a stay on environmental grounds is encouraged to file promptly so that the Commission may act on the request before the effective date.

[2] See *Exempt. of Rail Abandonment—Offers of Finan. Assist.,* 4 I.C.C. 2d 164 (1987).

use/rail banking requests under 49 CFR 1152.29 must be filed by November 30, 1992.[3] Petitions to reopen and requests for public use conditions under 49 CFR 1152.28 must be filed by December 8, 1992, with: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

A copy of any petition filed with the Commission should be sent to MP's representative: Jeanna L. Regier, 1416 Dodge Street, Room 830, Omaha, NE 68179.

If the notice of exemption contains false or misleading information, use of the exemption is void *ab initio.*

MP has filed an environmental report which addresses the abandonment's effects, if any, on the environment and historic resources. SEE will prepare and issue an environmental assessment (EA) by November 23, 1992. Interested persons may obtain a copy of the EA by writing to SEE (Room 3219, Interstate Commerce Commission, Washington, DC 20423) or by calling Elaine Kaiser, Chief of SEE, at (202) 927-6248. Comments on environmental and historic preservation matters must be filed within 15 days after the EA is available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Decided: November 5, 1992.

By the Commission, David M. Konschnik, Director, Officer of Proceedings.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 92-27959 Filed 11-17-92; 8:45 am]

BILLING CODE 7035-01-M

[3] The Commission will accept a late-filed trail use request as long as it retains jurisdiction to do so.

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. NRTL-1-89]

ETL Testing Laboratories, Inc.

AGENCY: Occupational Safety and Health Administration, Department of Labor.

ACTION: Notice of request for expansion of recognition as a nationally recognized testing laboratory.

SUMMARY: This notice announces the application of the ETL Testing Laboratories, Inc., for expansion of its recognition as a Nationally Recognized Testing Laboratory (NRTL) under 29 CFR 1910.7, and presents the Agency's preliminary finding.

DATES: The last date for interested parties to submit comments is January 19, 1993.

ADDRESSES: Send comments to: NRTL Recognition Program, Office of Variance Determination, Occupational Safety and Health Administration, U.S. Department of Labor, Third Street and Constitution Avenue, NW., room N3653, Washington, DC 20210.

FOR FURTHER INFORMATION CONTACT: James J. Concannon, Director, Office of Variance Determination, NRTL Recognition Program, Occupational Safety and Health Administration, U.S. Department of Labor, Third Street and Constitution Avenue, NW., room N3653, Washington, DC 20210.

SUPPLEMENTARY INFORMATION:

Notice of Application

Notice is hereby given that the ETL Testing Laboratories, Inc., (ETL), which previously made application pursuant to section 6(b) of the Occupational Safety and Health Act of 1970, (84 Stat. 1593, 29 U.S.C. 655), Secretary of Labor's Order No. 9-83 (48 FR 35763), and 29 CFR 1910.7 for recognition as a Nationally Recognized Testing Laboratory (see 54 FR 8411, 2/28/89), and which was so recognized (see 54 FR 37845, 9/13/89), has made application for an expansion of its current recognition for the equipment or materials listed below.

ETL initially applied for expansion of its initial recognition as a Nationally Recognized Testing Laboratory for 29 test standards pursuant to 29 CFR 1910.7 which was granted (Exhibit 16) as published in the **Federal Register** on December 18, 1990 (55 FR 51971-72). [Please also see Exhibit 17, the correction to Exhibit 16, published in the **Federal Register** on January 25, 1991 (56 FR 2953)].

The addresses of the concerned laboratories are:

ETL Testing Laboratories, Inc., Cortland Safety Division, Industrial Park, Cortland, New York 13045.

ETL Testing Laboratories, Inc., 5855-P Oakbrook Parkway, Norcross, Georgia 30093.

ETL Testing Laboratories, Inc., West Coast Division, 660 Forbes Boulevard, South San Francisco, California 94080.

Expansion of Recognition

ETL Testing Laboratories, Inc. (ETL) submitted an application for expansion of its current recognition, (Exhibit 18.A.), to include the following test standards, which are appropriate within the meaning of 29 CFR 1910.7(c).

ANSI/UL 62—Flexible Cord and Fixture Wire

ANSI/UL 198B—Class H Fuses

ANSI/UL 198D–High-Interrupting-Capacity Class K Fuses

ANSI/UL 198E—Class R Fuses

ANSI/UL 198F—Plug Fuses

ANSI/UL 198G—Fuses for Supplementary Overcurrent Protection

ANSI/UL 198H—Class T Fuses

ANSI/UL 198L—DC Fuses for Industrial Uses

ANSI/UL 198M—Mine-Duty Fuses

ANSI/UL 207—Refrigerant Containing Components and Accessories, Nonelectrical

ANSI/UL 244A—Solid-State Controls for Appliances

ANSI/UL 347—High-Voltage Industrial Control Equipment

ANSI/UL 353—Limit Controls

ANSI/UL 372 [1]—Primary Safety Controls for Gas- and Oil-Fired Appliances

ANSI/UL 467—Electrical Grounding and Bonding Equipment

ANSI/UL 469—Musical Instruments and Accessories

ANSI/UL 486A—Wire Connectors and Soldering Lugs for Use With Copper Conductors

ANSI/UL 514A—Metallic Outlet Boxes, Electrical

ANSI/UL 514B—Fittings for Conduit and Outlet Boxes

ANSI/UL 514C—Nonmetallic Outlet Boxes, Flush-Device Boxes and Covers

ANSI/UL 719—Nonmetallic Sheathes Cables

ANSI/UL 781 [2]—Portable Electric Lighting Units for Use in Hazardous (Classified) Locations

UL 810—Capacitors

ANSI/UL 859—Personal Grooming Appliances

ANSI/UL 877 [2]—Circuit Breakers and Circuit-Breaker Enclosures for Use in Hazardous (Classified) Locations

ANSI/UL 886 [2]—Electrical Outlet Boxes and Fittings for Use in Hazardous (Classified) Locations

ANSI/UL 900—Test Performance of Air-Filter Units

UL 1022—Line Isolated Monitors

ANSI/UL 1028—Electric Hair-Clipping and -Shaving Appliances

UL 1047—Isolated Power Systems Equipment

ANSI/UL 1063—Machine-Tool Wires and Cables

[1] Testing and certification is limited to equipment designed for use with "liquefied petroleum gas" ("LPG" or "LP-Gas").

[2] Testing and certification is limited to Class I locations.

UL 1066—Low-Voltage AC and DC Power Circuit Breakers Used in Enclosures
ANSI/UL 1277—Electrical Power and Control Tray Cables with Optional Optical-Fiber Members
ANSI/UL 1286—Office Furnishings
ANSI/UL 1310—Direct Plug-In Transformer Units
ANSI/UL 1409—Low-Voltage Video Products Without Cathode-Ray-Tube Displays
ANSI/UL 1446—Systems of Insulating Materials—General
UL 1449—Transient Voltage Surge Suppressors
ANSI/UL 1450—Motor-Operated Air Compressors, Vacuum Pumps and Painting Equipment
ANSI/UL 1557—Electrically Isolated Semiconductor Devices
ANSI/UL 1559—Insect-Control Equipment, Electrocution Type
ANSI/UL 1561—Large General Purpose Transformers
UL 1562—Transformers, Distribution, Dry-Type—Over 600 Volts
ANSI/UL 1563—Electric Hot Tubs, Spas, and Associated Equipment
ANSI/UL 1573—Stage and Studio Lighting Units
ANSI/UL 1574—Track Lighting Systems
UL 1594—Sewing and Cutting Machines
ANSI/UL 1624—Light Industrial and Fixed Electric Tools
ANSI/UL 1647—Motor-Operated Massage and Exercise Machines
UL 1660—Liquid-Tight Flexible Nonmetallic Conduit
ANSI/UL 1727—Commercial Electric Personal Grooming Appliances
UL 1778—Uninterruptible Power Supply Equipment
UL 1812—Ducted Heat Recovery Ventilators
UL 1815—Nonducted Heat Recovery Ventilators
UL 1917—Solid-State Fan Speed Controls
UL 1995—Heating and Cooling Equipment
IEEE C37.20.1—Metal-Enclosed Low Voltage Power Circuit Breaker Switchgear
IEEE C37.20.2—Metal-Clad and Station-Type Cubicle Switchgear
IEEE C37.20.3—Metal-Enclosed Interrupter Switchgear
ANSI/ISA S12.12 [2]—Electrical Equipment for Use in Class I, Division 2, Hazardous (Classified) Locations

In addition, in a letter from ETL dated October 9, 1991, a request was made to include two additional test standards, (Exhibit 18.B.):

ANSI/UL 96—Lightning Protection Components
ANSI/UL 983—Surveillance Cameras

The NRTL Recognition Program staff made an in-depth study of the details of ETL's application, amendments, and supplementary material and determined that an on-site visit to the South San Francisco facility was necessary. Such a visit was carried out on August 27, 1991, and a final report dated June 10, 1992, was submitted (see Exhibit 18.C.).

Preliminary Finding

Based upon a review of the details of ETL's recognition, an evaluation of its present application including details of necessary test equipment, procedures, and special apparatus or facilities needed, the on-site investigation of the South San Francisco facility, and the NRTL staff's report on the expansion of ETL's recognition, the Assistant Secretary has made a preliminary finding that the equipment and expertise required to list products to the aforementioned standards are within the capabilities of the laboratory, and that the proposed additional test standards (product categories) can be added to ETL's recognition.

All interested members of the public are invited to supply detailed reasons and evidence supporting or challenging the proposed expansion of the current recognition of the ETL Testing Laboratories, Inc., as required by 29 CFR 1910.7. Submission of pertinent written documents and exhibits shall be made no later than January 18, 1993, and must be addressed to the NRTL Recognition Program, Office of Variance Determination, room N 3653, Occupational Safety and Health Administration, U.S. Department of Labor, Third Street and Constitution Avenue, NW., Washington, DC 20210.

Copies of all pertinent documents (Docket No. NRTL–1–89), are available for inspection and duplication at the Docket Office, room N 2634, Occupational Safety and Health Administration, U.S. Department of Labor, at the above address.

Signed at Washington, DC this 12th day of November, 1992.

Dorothy L. Strunk,

Acting Assistant Secretary.

[FR Doc. 92–27886 Filed 11–17–92; 8:45 am]

BILLING CODE 4510–26–M

[Docket No. NRTL–1–91]

Warnock Hersey International, Inc.

AGENCY: Occupational Safety and Health Administration, Department of Labor.

ACTION: Notice of application for recognition as a nationally recognized testing laboratory, and preliminary finding.

SUMMARY: This notice announces the application of Warnock Hersey International, Inc. for recognition as a Nationally Recognized Testing Laboratory (NRTL) under 29 CFR 1910.7, and presents the Agency's preliminary finding.

DATES: The last date for interested parties to submit comments is November 18, 1992.

ADDRESSES: Send comments to: NRTL Recognition Program, Office of Variance Determination, Occupational Safety and Health Administration, U.S. Department of Labor, Third Street and Constitution Avenue, NW., room N3653, Washington, DC 20210.

FOR FURTHER INFORMATION CONTACT: James J. Concannon, Director, Office of Variance Determination, NRTL Recognition Program, Occupational Safety and Health Administration, U.S. Department of Labor, Third Street and Constitution Avenue, NW., room N3653, Washington, DC 20210.

Notice of Application

SUPPLEMENTARY INFORMATION: Notice is hereby given that Warnock Hersey International, Inc., (WH) has made application pursuant to section 6(b) of the Occupational Safety and Health Act of 1970, (84 Stat. 1593, 29 U.S.C. 655), Secretary of Labor's Order No. 1–90 (55 FR 9033), and 29 CFR 1910.7 for recognition as a Nationally Recognized Testing Laboratory.

The address of the laboratory covered by this application is: Warnock Hersey International, Inc., 530 Garcia Avenue, Pittsburg, California 94565.

Regarding the merits of the application, the applicant contends that it meets the requirements of 29 CFR 1910.7 for recognition in the areas of testing which it has specified.

The applicant states that for each item of equipment or material to be certified, it has the capability, including proper testing equipment and facilities, trained staff, written testing procedures, and calibration and quality control programs to perform testing and examining of equipment and materials for workplace safety purposes to determine conformation with appropriate test standards.

The applicant states that its Pittsburg, California facilities are adequate so that test samples are stored, handled and conditioned as required by the applicable codes and standards. The laboratory leases a 21,600 square foot building on a 3.25 acre site in an industrial park. Approximately 17,000 square feet of the floor space is utilized for product testing and evaluation. The

utilities available to the laboratory include electricity, natural gas, and water. The facility has a security and fire alarm system that is monitored by a contract security service. There are fire suppression systems installed in the office and laboratory areas.

Warnock Hersey International, Inc., states that it is an independent testing, inspection and certification organization. It warrants that no officer, director, or employee of WH is engaged in the sale, manufacture, or promotion of any product for which WH provides testing and certification services. WH and its employees do not engage in the design or promotion of any product tested and certified by WH. Further the applicant states that the loss or award of any specific contract is not a determining factor in its financial well being. Employment security at WH is not subject to the influence of any manufacturer, producer, supplier or vendor of any product, nor does the applicant accrue any financial benefits from any of the previously noted groups. Finally, the applicant states that neither it, nor its directors and principal officers are affiliated with or influenced by producers, suppliers or vendors in any way which might affect their capacity to render reports of findings objectively and without bias.

In the explanation of its quality control program, test program procedures and certification program procedures, (Ex. 2. A., Sec. VI.), the applicant appears to maintain effective procedures for producing creditable findings or reports that are objective and without bias. WH further maintains an Operations Review Manual which specifies basic procedures, test methods, reporting, and general laboratory policies, which is updated as needed. The Manual also assigns the duties and responsibilities for the laboratory's operation to specific key personnel, with the General Manager being responsible for the Quality Assurance Program. The laboratory has an ongoing internal audit program that is specified in the Operations Review Manual. According to the applicant, the Manual also provides pertinent information on the equipment calibration program. An inventory file is maintained containing a written record for every instrument. Each piece of equipment is identified with an inventory label and calibration information. A system is in place to indicate when instruments are due for calibration. All calibrations are traceable to the appropriate national standards, such as the National Institute of Standards and Technology (NIST) or to natural physical constants.

The applicant states that it organizes and retains original test data and copies of test reports and inspection reports for a minimum of three years.

WH states that it maintains effective procedures for handling complaints and disputes under a fair and reasonable system. Applicants are rejected on an inability to demonstrate that they can produce their product on a consistent basis. Appeals may be made on this basis to WH management. A client may also appeal any action to limit or terminate his certification to, in turn, the Vice President and President of Warnock Hersey International, Inc. In addressing the complaints and disputes raised by others than clients, including the general public, authorities having jurisdiction, and government agencies, the practice of Warnock Hersey International, Inc., is to handle these concerns on a case-by-case basis. Each complaint and dispute is thoroughly investigated by qualified personnel. Individual and prompt attention is given to all concerned parties. The issue in question is of top priority status until a fair and reasonable solution is reached, according to the applicant.

The applicant states that it provides for the implementation of control procedures for identifying the listed and labeled equipment or materials, inspection of the production run of such items at factories for product evaluation purposes to assure conformance with applicable test standards to monitor and to assure the proper use of its identifying mark or labels on products. The laboratory has a written Factory Audit (Inspection) Manual that is to be used by its inspectors to assure that the product currently manufactured is identical to the product tested and certified. The Manual requires a minimum of four inspections annually, although the usual number is twelve. There are also specific directions for the inspector to follow in the event of product discrepancies, including the filing of an Inspection Discrepancy Report. A variety of remedial action may be taken by WH, depending upon the seriousness of the discrepancy.

Other than conducting the required ongoing inspections in the manufacturing plant or in the facility where the Warnock Hersey certification mark and certification labels are applied to products, WH does not conduct field inspections to monitor the certification mark and certification labels on products in the general marketplace. However, WH states that it will conduct these types of inspections where it is requested to do so. For example, government agencies may request that the applicant inspect Warnock Hersey certified fire doors installed in a particular government property. The technical personnel handling these inspections are trained in the proper installation of rated products through comprehensive study of the national, state and local building and fire codes.

The applicant also maintains a directory of certified products.

Background

According to the applicant, Warnock Hersey International, Inc. is a wholly-owned subsidiary of Lavalin Corporation, a State of Michigan Corporation. WH operates in the United States with its headquarters located in Long Beach, California. The WH laboratory that is the subject of this application is located in Pittsburg, California.

The applicant states that in April 1976 it opened its Fire Test Laboratory in the United States in Antioch, California. In April 1983, it moved to larger facilities in Pittsburg, California.

Warnock Hersey employs sixteen people at the laboratory site. Nine employees are currently involved in testing and evaluation to the product standards listed. The key personnel are identified as the Western Region Manager, Laboratory Supervisor, Fire Testing Laboratory Manager, and Engineers and Laboratory Technicians.

The applicant desires recognition for testing and certification of products when tested for compliance with the following test standards, which are appropriate within the meaning of 29 CFR 1910.7(c):

ASTM E 152—Methods of Fire Tests of Door Assemblies

ASTM E 163—Standard Methods of Fire Tests of Window Assemblies

Preliminary Finding

Warnock Hersey International, Inc. addressed all of the criteria which had to be met for recognition as an NRTL in its initial application and in its further correspondence. For example, the applicant submitted a list of its test equipment and instrumentation; a roster of its personnel including resumes of those in key positions and copies of position descriptions; copies of a typical test report, a factory inspection form and an inspection summary; a summary of its listing, labeling, and follow-up services; a statement of its independence as a testing laboratory; and a copy of its quality Assurance Manual including a description of its

documentation, calibration system, appeals procedure, record keeping and operational procedures.

Nine major areas were examined in depth in carrying out the on-site laboratory survey: Facility; test equipment; calibration program; test and evaluation procedures; test reports; records; quality assurance program; follow-up listing program; and personnel.

The discrepancies noted by the survey team in the on-site evaluation were adequately responded to by the applicant prior to the preparation of the survey report (Ex. 3.A.(1)).

With the preparation of the final report of Warnock Hersey International, Inc., the survey team was satisfied that the testing facility appeared to meet the necessary criteria required by the standard, and so noted in the On-Site Review Report (Survey). (See Ex. 3.A.).

Following a review of the application file and the on-site survey report of the WH facility, the NRTL Recognition Program staff concluded that the applicant appeared to have met the requirements for recognition as a Nationally Recognized Testing Laboratory and, therefore, recommended to the Assistant Secretary that the application be preliminarily approved.

Based upon a review of the completed application file and the recommendation of the staff, the Assistant Secretary has made a preliminary finding that Warnock Hersey International, Inc. can meet the requirements for recognition as required by 29 CFR 1910.7.

All interested members of the public are invited to supply detailed reasons and evidence supporting or challenging the sufficiency of the applicant's having met the requirements for a Nationally Recognized Testing Laboratory, as well as appendix A, of 29 CFR 1910.7. Submission of pertinent written documents and exhibits shall be made no later than January 19, 1993, and must be addressed to the NRTL Recognition Program, Office of Variance Determination, room N 3653, Occupational Safety and Health Administration, U.S. Department of Labor, Third Street and Constitution Avenue, N.W., Washington, DC 20210. Copies of the WH application, the laboratory survey report, and all submitted comments, as received, (Docket No. NRTL–2–90), are available for inspection and duplication at the Docket Office, room N 2634, Occupational Safety and Health Administration, U.S. Department of Labor, at the above address.

The Assistant Secretary's final decision on whether the applicant satisfies the requirements for recognition as an NRTL will be made on the basis of the entire record including the public submissions and any further proceedings that the Assistant Secretary may consider appropriate in accordance with appendix A of § 1910.7.

Signed at Washington, DC this 12th day of November 1992.

Dorothy L. Strunk,

Acting Assistant Secretary.

[FR Doc. 92–27885 Filed 11–17–92; 8:45 am]

BILLING CODE 4510–26–M

Employment and Training Administration

Attestations Filed by Facilities Using Nonimmigrant Aliens as Registered Nurses; Notice

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice.

SUMMARY: The Department of Labor (DOL) is publishing, for public information, a list of the following health care facilities which plan on employing nonimmigrant alien nurses. These organizations have attestations on file with DOL for that purpose.

ADDRESSES: Anyone interested in inspecting or reviewing the employer's attestation may do so at the employer's place of business.

Attestations and short supporting explanatory statements are also available for inspection in the Immigration Nursing Relief Act Public Disclosure Room, U.S. Employment Service, Employment and Training Administration, Department of Labor, room N4456, 200 Constitution Avenue, NW., Washington, DC 20210.

Any complaints regarding a particular attestation or a facility's activities under that attestation, shall be filed with a local office of the Wage and Hour Division of the Employment Standards Administration, U.S. Department of Labor. The address of such offices are found in many local telephone directories, or may be obtained by writing to the Wage and Hour Division, Employment Standards Administration, Department of Labor, room S3502, 200 Constitution Avenue, NW., Washington, DC 20210.

FOR FURTHER INFORMATION CONTACT:

Regarding the Attestation Process

Chief, Division of the Foreign Labor Certifications, U.S. Employment Service. Telephone: (202) 219–5263 (this is not a toll-free number).

Regarding the Complaint Process

Questions regarding the complaint process for the H–1A nurse attestation program shall be made to the Chief, Farm Labor Program, Wage and Hour Division. Telephone: (202) 219–7605 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: The Immigration and Nationality Act requires that a health care facility seeking to use nonimmigrant aliens as registered nurses first attest to the Department of Labor (DOL) that it is taking significant steps to develop, recruit and retain United States (U.S.) workers in the nursing profession. The law also requires that these foreign nurses will not adversely affect U.S. nurses and that the foreign nurses will be treated fairly. The facility's attestation must be on file with DOL before the Immigration and Naturalization Service will consider the facility's H–1A visa petitions for bringing nonimmigrant registered nurses to the United States. 26 U.S.C. 1101(a)(15)(H)(i)(a) and 1181(m). The regulations implementing the nursing attestation program are at 20 CFR part 655 and 29 CFR part 504, 55 FR 50500 (December 6, 1990). The Employment and Training Administration, pursuant to 20 CFR 655.310(c), is publishing the following list of facilities which have submitted attestations which have been accepted for filing.

The list of facilities is published so that U.S. registered nurses, and other persons and organizations can be aware of health care facilities that have requested foreign nurses for their staffs. If U.S. registered nurses or other persons wish to examine the attestation (on Form ETA 9029) and the supporting documentation, the facility is required to make the attestation and documentation available. Telephone numbers of the facilities' chief executive officers also are listed, to aid public inquires. In addition, attestations and supporting short explanatory statements (but not the full supporting documentation) are available for inspection at the address for the Employment and Training Administration set forth in the **ADDRESSES** section of this notice.

If a person wished to file a complaint regarding a particular attestation or a facility's activities under that attestation, such complaint must be filed at the address for the Wage and Hour Division of the Employment Standards Administration set forth in the **ADDRESSES** section of this notice.

Signed at Washington, DC, this 6th day of November, 1992.

Robert A. Schaerfl,

Director, United States Employment Service.

DIVISION OF FOREIGN LABOR CERTIFICATIONS APPROVED ATTESTATIONS

[10/1/92 to 10/31/92]

CEO-name/facility name/ address	State	Approval date
Mr. James R. Blackmon, Southeast Alabama Med. Ctr., P.O. Drawer 6987, Dothan 36301, 205-793-8001.	AL	10/26/92
Mr. Robert A. Rundio, Phoenix Memorial Hospital, 1201 South 7th Avenue, Phoenix 85007, 602-258-5111.	AZ	10/5/92
Mr. William G. Coe, Parker Community Hospital, P.O. Box 1149, Parker 85344, 602-669-9201.	AZ	10/14/92
Mr. Jacob Friedman, Studio City Conval. Hosp., 11429 Ventura Blvd., Studio City 91604, 818-877-6034.	CA	10/5/92
Mr. Jacob Friedman, Northridge Care Center, 7836 Reseda Blvd., Reseda 91335, 818-881-7414.	CA	10/5/92
Mr. Jacob Friedman, Longwood Manor Conval. Hosp., 4853 West Washington Blvd., Los Angeles 90016, 213-935-1157.	CA	10/5/92
Mr. Jacob Friedman, San Gabriel Conval. Hosp., 8035 East Hill Drive, Rosemead 91770, 213-283-0932.	CA	10/5/92
Mr. Jacob Friedman, Burlington Conval. Hosp., 845 South Burlington Avenue, Los Angeles 90057, 213-381-5585.	CA	10/5/92
Mr. Albert E. Ebuen, Exproserv Unlimited, 550 East 8th Street, National City 91950, 619-477-2490.	CA	10/6/92
Ms. Patti Cook, Culver West Conval. Hospital, 4035 Grand View Blvd., Los Angeles 90066, 310-390-9506.	CA	10/14/92
Mr. Joseph Hummel, Kaiser Foundation Hosps., Kaiser Permanente, Los Angeles 90027, 213-667-4011.	CA	10/14/92
Mr. Calvin Callaway, Folsom Convalescent Hospital, 510 Mill Street, Folsom 95630, 916-985-3641.	CA	10/14/92
Mr. Bruce Janssen, Huntington Beach Conval. Hosp., 18811 Florida Street, Huntington Beach 92648, 714-847-3515.	CA	10/14/92

DIVISION OF FOREIGN LABOR CERTIFICATIONS APPROVED ATTESTATIONS—Continued

[10/1/92 to 10/31/92]

CEO-name/facility name/ address	State	Approval date
Mr. Michael Markley, St. Mary Desert Valley Hosp., 18300 Hwy 18, P.O. Box 7025, Apple Valley 92307, 619-242-2311.	CA	10/16/92
Mr. Sidney R. Hewitt, S&V Health Care Recruiting Agency, San Diego 92114, 619-267-7134.	CA	10/16/92
Mr. Peter Friedman, Washington Medical Center, 12101 West Washington Blvd., Culver City 90231, 310-391-0601.	CA	10/16/92
Mr. Guy R. Seaton, St. Luke's Subacute Care Hosp. and Nursing Centre, San Leandro 94578, 510-357-5351.	CA	10/16/92
Ms. Wensceslao P. Javier, WPJ Health Care Consultant, 849 Lehigh Avenue, Chula Vista 91913, 619-421-1526.	CA	10/20/92
Mr. Robert Vernon Smith, Driftwood Conval. Hosp., GCI Properties, Inc. DBA; Fremont 94538, 510-792-3743.	CA	10/20/92
Mr. Bill Snowden, Linda Valley Conval. Hospital, 25383 Cole Street, Loma Linda 92354, 714-796-0235.	CA	10/20/92
Mr. James E. Acevedo, Community & Mission Hospitals, 2623 East Slauson Avenue, Huntington Park 90255, 213-583-1931.	CA	10/20/92
Mr. D. Scott Ideson, Mercy General Hospital, 4001 J Street, Sacramento 95819, 916-453-4915.	CA	10/23/92
Mr. Jess Villaluna, U.S. Med. Manpower Int'l, 9921 Carmel Mountain Rd., San Diego 92129, 619-672-3232.	CA	10/26/92
Ms. Kathleen J. Lovato, San Tomas Convalescent Hosp., 3580 Payne Avenue, San Jose 95117, 408-248-7100.	CA	10/29/92
Ms. Gail Mackay, San Diego Med. Staffing, 8885 Rio San Diego, San Diego 92108, 619-297-9471.	CA	10/29/92
Mr. Arthur Gerrick, Bellwood General Hosp., 10250 E. Artesia Blvd., Bellflower 90706, 310-866-9028.	CA	10/29/92
Mr. Andres N. Embuido, US Lifeline Nursing Services, 8033 Los Sabalos St., San Diego 92126, 619-549-3505.	CA	10/30/92

DIVISION OF FOREIGN LABOR CERTIFICATIONS APPROVED ATTESTATIONS—Continued

[10/1/92 to 10/31/92]

CEO-name/facility name/ address	State	Approval date
Mr. Kelly C. Morgan, Mercy Hospital, 2740 M Street, Merced 95340, 209-384-6444.	CA	10/30/92
Mr. Gonzalo Del Rosario, Rosecrans Care Center, Healthcare Investments, Inc., Gardena 90247, 213-323-3194.	CA	10/30/92
Mr. Dennis Brimhall, University Hospital, 42M E. 9th Avenue, Denver 80267, 303-270-5681.	CO	10/29/92
Mr. Michae E. Schrader, Bridgeport Hospital, 267 Grant Street, Bridgeport 06610, 203-384-3005.	CT	10/14/92
Mr. David J. Ianacone, St. Camillus Health Ctr., 494 Elm St., Stamford 06902, 203-325-0200.	CT	10/30/92
Mr. Wayne C. Schiffner, Dover General Hospital and MC, Dover 07801, 201-989-3020.	DE	10/29/92
Mr Brent Marsteller, Sun Coast Hospital, 2025 Indian Rocks Road, Largo 34849, 813-586-7106.	FL	10/14/92
Mr. Ed Maas, Humana Hosp.-Palm Beaches, 2201 45th Street, West Palm Beach 33407, 407-863-3820.	FL	10/14/92
Mr. Michael Fenello, Capital Hospital, d/b/a Capital Rehab. Hosp., Tallahassee 32308, 904-656-4805.	FL	10/14/92
Mr. A. Jason Geisinger, Orlando Memorial Conval. Ctr., 1730 Lucerne Terrace, Orlando 32806, 407-423-1612.	FL	10/20/92
Mr. Steven Wenzel, Spring Hill Regional Hosp., 10461 Quality Drive, Springhill 34609, 904-544-6150.	FL	10/20/92
Mr. William J. Byron, Good Samaritan Med. Ctr., Flager Drive, West Palm Beach 33402, 407-655-5511.	FL	10/20/92
Walter Gassner, M.D., Parkway Reg'l Med. Ctr., North Miami Med. Ctr. Ltd., North Miami 33169, 305-654-5064.	FL	10/26/92
Mr. A. Jason Geisinger, Cape Coral Nursing Pavilion, Thee First Healthcare, dba, Cape Coral 33904, 813-574-4434.	FL	10/29/92
Mr. John Ives, Memorial Medical Center, Inc., 4700 Waters Avenue, Savannah 31403, 912-356-8000.	GA	10/5/92

DIVISION OF FOREIGN LABOR CERTIFICATIONS APPROVED ATTESTATIONS—Continued

[10/1/92 to 10/31/92]

CEO-name/facility name/address	State	Approval date
Sister Patricia Garrigan, St. Francis Hospital Inc., 2122 Manchester Expressway, Columbus 31908, 706-596-4140.	GA	10/20/92
Mr. Robert B. Johnson, The Fulton-Dekalb Hosp. Authority, Atlanta 30335, 404-616-1900.	GA	10/20/92
Mr. David A. Sands, Hospital Services, Inc., 1068 S. Roselle Rd., Schaumburg 60194, 708-893-9899.	IL	10/5/92
Serafin C. Hagan, M.D., Active Home Health Care, Inc., 1701 S. First Ave., Maywood 60153, 708-786-6700.	IL	10/14/92
Ms. Jacqueline L. Mason, Oak Brook Healthcare Ctre., 2013 Midwest Road, Oak Brook 60521, 708-495-0220.	IL	10/14/92
Ms. Cheryl Wadzinsky, Beacon Hill Retir. Community, 2400 South Finley Road, Lombard 60148, 708-620-5850.	IL	10/14/92
Ms. Joyce Hendrix-Dale, Ridgeland Nursing & Rehab. Ctr., 12550 S. Ridgeland Avenue, Palos Heights 60463, 708-597-9300.	IL	10/16/92
Mr. Bryan Barrish, Columbus Park Inc., 901 South Austin Blvd., Chicago 60644, 312-287-5959.	IL	10/16/92
Mr. Richard Haskell, Belhaven Health Care Retirement, Chicago 60643, 312-233-6311.	IL	10/16/92
Ms. Rose Marie Betz, Carlton at the Lake, Inc., 725 W. Montrose Ave., Chicago 60613, 312-929-1700.	IL	10/21/92
Ms. Agustina T. Artates, Midwest Quality Nursing Ser., Employment Agency, Inc., Westmont 60559, 708-964-1529.	IL	10/27/92
Mr. John Samatas, Lexington Health Care Ctr. of Chicago Ridge, Chicago 60415, 708-495-1700.	IL	10/30/92
Mr. Frank A. Riddick, Jr., Alton Ochsner Med. Foundation, 1516 Jefferson Hwy., New Orleans 70121, 504-842-3604.	LA	10/6/92
Mr. A. Jason Geisinger, Presentation Manor Nur. Home, First Healthcare Corp., Brighton, 617-782-8113.	MA	10/14/92
Mr. Merrill A. Frank, Lee Memorial Hospital, 420 West High Street, Dowagiac 49047, 616-782-8681.	MI	10/5/92
Ms. Kathy Ray, Heritage Manor of Cleveland, 200 Dr. Martin L. King Jr., Dr., Cleveland 38732, 601-843-5347.	MS	10/29/92
Ms. Mena Duth, Heritage Rolling Fork Manor, LA Extended Care Center, Rolling Fork, 39159, 601-873-6218.	MS	10/30/92
Ms. Linda Yarbough, Community Extended Care Ctrs., d/b/a/ Humphreys County Nursing Home, Belzoni 39038, 601-247-1821.	MS	10/30/92
Mr. Myren Hughes, Attala County Nursing Home, LECG, Inc., d/b/a/ Kosciusko 39090, 601-289-1200.	MS	10/30/92
Mr. Kyle Hopstad, Frances Mahon Deaconess Hosp., 621 3rd Street, South, Glasgow 59230, 406-228-4351.	MT	10/5/92
Ms. Carol L. Prater, Brian Ctr. Health & Retir. Weaverville, Weaverville 28787, 704-645-4297.	NC	10/5/92
Ms. Mary Ann Thompson, Brian Crt./Lincolnton of Heal & Retirement, Lincolnton 28093, 704-735-8065.	NC	10/5/92
Ms. Paula Phillips, Carlotte Health Care Ctr., 1735 Toddville Road, Charlotte 28214, 704-394-4001.	NC	10/14/92
Mr. Steve Harrison, Britthaven of Raleigh, 3609 Bond Street, Raleigh 27604, 919-0231-8113.	NC	10/20/92
Mr. Nolan G. Brown, Louisburg Nursing Ctr., Inc., P.O. Box 629, Louisburg 27549, 919-496-2188.	NC	10/20/92
Mr. O. Wade Avant, Jr., Shoreland Health Care & Retirement, Whiteville 28472, 919-642-4300.	NC	10/20/92
Mr. D. Wade Avent, Jr., Century Care Center, 316 West Burkhead Street, Whiteville 28472, 919-642-7139.	NC	10/20/92
Mr. Dan R. Cotten, Brian Center Health and Retirement of Wilson, Wilson 27895, 919-257-6300.	NC	10/23/92
Mr. Gary Pizzichillo, Medicenter of Lakewood, 685 River Avenue, Lakewood 08701, 908-364-8300.	NJ	10/5/92
Ms. Leonora Pilao-Dwyer, King David Care Ctr. of Atlantic City, Atlantic 08401, 609-344-2181.	NJ	10/30/92
Mr. Richard L. Petrillo, M.D., The Mount Vernon Hospital, 12 North Seventh Avenue, Mount Vernon, 914-664-8000.	NY	10/14/92
Sr. Patrick Michael Kane, St. Patrick's Home, 66 Van Cortlandt Park, South, Bronx 10463, 212-519-2800.	NY	10/14/92
Mr. Mark O'Neil, Jr., United Health Services Hosps., 33-57 Harrison St., Johnson City 13790, 607-763-6000.	NY	10/20/92
Ms. Celia Strow, The Grace Plaza of Great Neck Inc., Great Neck 11021, 516-466-3001.	NY	10/30/92
Mr. Randy L. Curry, Comanche County Mem. Hosp., 3401 West Gore Blvd., Lawton 73501, 405-355-8620.	OK	10/30/92
Ms. Joyce Dean Miller, Sunny Acres Nursing Home, Inc., Lee C. Miller Med. Ctr., d/b/a Fork 29543, 803-464-6212.	SC	10/5/92
Ms. Joni Hill, Eastland Healthcare Ctr., Cambridge Healthcare of Eastland, Inc., Nashville 37206, 615-226-3264.	TN	10/30/92
Mr. Robert Smith, Martin County Hospital, P.O. Box 640-6101, Stanton 79782, 915-756-3345.	TX	10/20/92
Ms. Angelita S. De Jesus Sovoia, Texas Employee's Assistance Center, Houston 77072, 713-879-7788.	TX	10/20/92
Mr. Ernie W. Sadau, Metroplex Adventist Hosp., 2201 S. Clear Creek Road, Killeen 76542, 817-526-7523.	TX	10/20/92
Ms. Merlita A. Velasquez, Nursing Resource, Inc., 10303 N.W. Freeway #427, Houston 77092, 713-956-1173.	TX	10/20/92
Mr. James Courtney, University Medical Center, 602 Indiana Avenue, Lubbock 79417, 806-743-3515.	TX	10/29/92

DIVISION OF FOREIGN LABOR CERTIFICATIONS APPROVED ATTESTATIONS—Continued

[10/1/92 to 10/31/92]

CEO-name/facility name/address	State	Approval date
Mr. Bruce Rampage, St. Catherine's Hospital, 3556 Seventh Avenue, Kenosha 53140, 414–656–3011.	WI	10/16/92

Total attestations: 86.

[FR Doc. 92–27884 Filed 11–17–92; 8:45 am]

BILLING CODE 4510–30–M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Agency Information Collection Under OMB Review

AGENCY: National Endowment for the Humanities.

ACTION: Notice.

SUMMARY: The National Endowment for the Humanities (HEH) has sent to the Office of Management and Budget (OMB) the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

DATES: Comments on this information collection must be submitted on or before December 18, 1992.

ADDRESSES: Send comments to Ms. Susan Daisey, Assistant Director, Grants Office, National Endowment for the Humanities, 1100 Pennsylvania Avenue, NW., room 310, Washington, DC 20506 (202–606–8494) and Mr. Steve Semenuk, Office of Management and Budget, New Executive Office Building, 726 Jackson Place, NW., room 3002, Washington, DC 20503 (202–395–6880).

FOR FURTHER INFORMATION CONTACT: Ms. Susan Daisey, Assistant Director, Grants Office, National Endowment for the Humanities, 1100 Pennsylvania Avenue, NW., room 310, Washington, DC 20506 (202) 606–8494 from whom copies of forms and supporting documents are available.

SUPPLEMENTARY INFORMATION: All of the entries are grouped into new forms, revisions, extensions, or reinstatements. Each entry is issued by NEH and contains the following information: (1) The title of the form; (2) the agency form number, if applicable; (3) how often the form must be filled out; (4) who will be required or asked to report; (5) what the form will be used for; (6) an estimate of the number of responses; (7) the frequency of response; (8) an estimate of the total number of hours needed to fill out the form; (9) an estimate of the total annual reporting and recordkeeping burden. None of these entries are subject to 44 U.S.C. 3504(h).

Category: Revisions

Title: Guidelines and Application Forms for the Editions Program and the Translations Program.

Form Number: Not Applicable.

Frequency of Collection: Annual.

Respondents: Humanities Scholars and Institutions.

Use: Application for funding.

Estimated Number of Respondents: 183 per year.

Frequency of Response: Once.

Estimated Hours for Respondents to Provide Information: 56 hours per respondent.

Estimated Total Annual Reporting and Recordkeeping Burden: 21,672 hours.

Thomas S. Kingston,

Assistant Chairman for Operations.

[FR Doc. 92–27933 Filed 11–17–92; 8:45 am]

BILLING CODE 7536–01–M

Literature Advisory Panel Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Literature Advisory Panel (Literary Publishing Section) to the National Council on the Arts will be held on December 1, 1992 from 11 a.m.–5 p.m. and December 2–4 from 9 a.m.–5 p.m. in room M–14 at the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

A portion of this meeting will be open to the public on December 4 from 1 p.m.–3 p.m. for guidelines review and policy discussion.

The remaining portions of this meeting on December 1 from 11 a.m.–5 p.m., December 2–3 from 9 a.m.–5 p.m., and December 4 from 9 a.m.–1 p.m. and 3 p.m.–5 p.m. are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman of November 20, 1991, these sessions will be closed to the public pursuant to subsection (c) (4), (6) and (9)(B) of section 552b of title 5, United States Code.

Any person may observe meetings, or portions thereof, of advisory panels which are open to the public, and may be permitted to participate in the panel's discussions at the discretion of the panel chairman and with the approval of the full-time Federal employee in attendance.

If you need special accommodations due to a disability, please contact the Office of Special Constituencies, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW., Washington, DC 20506, 202/682–5532, TTY 202/682–5496, at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Yvonne M. Sabine, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call (202) 682–5439.

Yvonne M. Sabine,

Director, Panel Operations, National Endowment for the Arts.

[FR Doc. 92–27911 Filed 11–17–92; 8:45 am]

BILLING CODE 7537–01–M

Opera-Musical Theater Advisory Panel

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Opera-Musical Theater Advisory Panel (New American Works Panel A Section) to the National Council on the Arts will be held on December 2–3, 1992 from 9:00 a.m.–9:30 p.m. and December 4 from 9 a.m.–5 p.m. in rooms M–07 and M–09 at the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

Portions of this meeting will be open to the public on December 2 from 9 a.m.–10 a.m. and December 4 from 10:45 a.m.–11:45 a.m. and 3:30 p.m.–5 p.m. The topics will be introductory remarks and policy discussion.

The remaining portions of this meeting on December 2 from 10 a.m.–9:30 p.m., December 3 from 9 a.m.–9:30 p.m., and December 4 from 9 a.m.–10:45 a.m. and 11:45 a.m.–3:30 p.m. are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman of November 20, 1991, these sessions will be closed to the public pursuant to subsection (c)(4), (6) and (9)(B) of

section 552b of Title 5, United States Code.

Any person may observe meetings, or portions thereof, of advisory panels which are open to the public, and may be permitted to participate in the panel's discussions at the discretion of the panel chairman and with the approval of the full-time Federal employee in attendance.

If you need special accommodations due to a disability, please contact the Office of Special Constituencies, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW., Washington, DC 20506, 202/682–5532, TTY 202/682–5496, at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Yvonne M. Sabine, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 682–5439.

Dated November 12, 1992.

Yvonne M. Sabine,

Director Panel Operations National Endowment for the Arts.

[FR Doc. 92–27910 Filed 11–17–92; 8:45 am]

BILLING CODE 7537–01–M

Opera-Musical Theater Advisory Panel Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Opera-Musical Theater Advisory Panel (New American Works Panel B Section) to the National Council on the Arts will be held on December 7–8, 1992 from 9 a.m.–9:30 p.m. and December 9 from 9 a.m.–5 p.m. in rooms M–07 and M–09 at the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

Portions of this meeting will be open to the public on December 7 from 9 a.m.–10 a.m. and December 9 from 10:45 a.m.–11:45 a.m. and 3:30 p.m.–5 p.m. The topics will be introductory remarks and policy discussion.

The remaining portions of this meeting on December 7 from 10 a.m.–9:30 p.m., December 8 from 9 a.m.–9:30 p.m., and December 9 from 9 a.m.–10:45 a.m. and 11:45 a.m.–3:30 p.m. are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman of November 20, 1991, these sessions will be closed to the public pursuant to subsection (c)(4), (6) and (9)(B) of section 552b of Title 5, United States Code.

Any person may observe meetings or portions thereof, of advisory panels which are open to the public, and may be permitted to participate in the panel's discussions at the discretion of the panel chairman and with the approval of the full-time Federal employee in attendance.

If you need special accommodations due to a disability, please contract the Office of Special Constituencies, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW., Washington, DC 20506, 202/682–5532, TTY 202/682–5496, at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Yvonne M. Sabine, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call (202) 682–5439.

Dated: November 12, 1992.

Yvonne M. Sabine,

Director Panel Operations National Endowment for the Arts.

[FR Doc. 92–27912 Filed 11–17–92; 8:45 am]

BILLING CODE 7537–01–M

Opera-Musical Theater Advisory Panel; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92–463), as amended, notice is hereby given that a meeting of the Opera-Musical Theater Advisory Panel (Overview Section) to the National Council on the Arts will be held on December 10, 1992 from 9 a.m. to 3:30 p.m. in room M–07 at the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

A portion of this meeting will be open to the public from 9 a.m. to 2:30 p.m. The topics will be introductory remarks, policy discussion and guidelines review.

The remaining portion of this meeting from 2:30 p.m. to 3:30 p.m. is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman of November 21, 1991, this session will be closed to the public pursuant to subsection (c)(4), (6) and (9)(B) of section 552b of title 5, United States Code.

Any person may observe meetings, or portions thereof, of advisory panels which are open to the public, and may be permitted to participate in the panel's discussions at the discretion of the panel chairman and with the approval of the full-time Federal employee in attendance.

If you need special accommodations due to a disability, please contact the Office of Special Constituencies, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW., Washington, DC 20506, 202/682–5532, TTY 202/682–5496, at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Yvonne M. Sabine, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call (202) 682–5439.

Dated: November 12, 1992.

Yvonne M. Sabine,

Director, Panel Operations, National Endowment for the Arts.

[FR Doc. 92–27913 Filed 11–17–92; 8:45 am]

BILLING CODE 7537–01–M

Opera-Musical Theater Advisory Panel; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Opera-Musical Theater Advisory Panel (Special Projects/Services to the Field Section) to the National Council on the Arts will meet on December 10, 1992 from 3:45 p.m. to 9 p.m. and December 11 from 9 a.m. to 5 p.m. in room M–07 of the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

This meeting is for the purpose of application evaluation, under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the Agency by grant applicants. In accordance with the determination of the Chairman of November 20, 1991, these sessions will be closed to the public pursuant to subsections (c) (4), (6) and (9)(B) of section 552b of title 5, United States Code.

Further information with reference to this meeting can be obtained from Ms. Yvonne M. Sabine, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call (202) 682–5439.

Dated: November 12, 1992.

Yvonne M. Sabine,

Director, Panel Operations, National Endowment for the Arts.

[FR Doc. 92-27914 Filed 11-17-92; 8:45 am]

BILLING CODE 7537-01-M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Earth Sciences; Notice of 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: December 1, 1992; 8:30 a.m. to 5 p.m.

PLACE: Conference Room # 523, 1800 G St., NW., Washington, DC.

TYPE OF MEETING: Closed.

CONTACT PERSON: Dr. Marvin E. Kauffman, Program Director, Education and Human Resources Program, Division of Earth Sciences, room 602, National Science Foundation, 1800 G St., NW., Washington, DC 20550. Telephone: (202) 357-7356.

PURPOSE OF MEETING: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

AGENDA: To review and evaluate REU-Site Panel 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: November 13, 1992.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 92-27934 Filed 11-17-92; 8:45 am]

BILLING CODE 7555-01-M

NUCLEAR REGULATORY COMMISSION

Georgia Power Co., et al.; Establishment of Atomic Safety and Licensing Board

[Docket Nos. 50-424-OLA-3 and 50-425-OLA-3; ASLBP No. 93-671-01-OLA-3]

Pursuant to delegation by the Commission dated December 29, 1972, published in the **Federal Register**, 37 F.R. 28710 (1972), and sections 2.105, 2.700, 2.702, 2.714, 2.714a, 2.717 and 2.721 of the Commission's Regulations, all as amended, an Atomic Safety and Licensing Board is being established in the following proceeding to rule on petitions for leave to intervene and/or requests for hearing and to preside over the proceeding in the event that a hearing is ordered.

Georgia Power Company, et al.

Vogtle Electric Generating Plant, Units 1 and 2

Facility Operating License Nos. NPF-68 and NPF-81, (Plant Operator Transfer)

This Board is being established pursuant to a notice published by the Commission on October 14, 1992, in the **Federal Register** (57 F.R. 47127, 47135) entitled, "Applications and Amendments to Operating Licenses Involving No Significant Hazards Considerations". The proposed amendments would revise Facility Operating License Nos. NPF-68 and NPF-81, currently held by Georgia Power Company, Oglethorpe Power Corporation, Municipal Electric Authority of Georgia, and City of Dalton, Georgia (the Owners) to allow Southern Nuclear Operating Company, Inc. (hereafter called Southern Nuclear) to become the operator of Vogtle Units 1 and 2. Southern Nuclear would become the exclusive operating licensee, to possess, manage, use, operate, and maintain the facility. Georgia Power Company is the current operator of the facility. The proposed action would involve no change in ownership. The current Owners would remain on the licenses as licensed owners and would continue to own the assets of the facility in the same percentages as now. Southern Nuclear would have not entitlement to power output from Vogtle or authority to dispatch, broker or market the energy generated.

The Board is comprised of the following administrative judges:

Judge Peter B. Bloch, Board Chairman, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, DC 20555

James H. Carpenter, Board Member, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, DC 20555

Thomas D. Murphy, Board Member, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, DC 20555

All correspondence, documents and other materials shall be filed with the Judges in accordance with 10 CFR 2.701.

Issued at Bethesda, Maryland, this 10th day of November, 1992.

B. Paul Cotter, Jr.,

Chief Administrative Judge, Atomic Safety and Licensing Board Panel.

[FR Doc. 92-27944 Filed 11-17-92; 8:45 am]

BILLING CODE 7590-01-M

SECURITIES AND EXCHANGE COMMISSION

[Securities Exchange Act Release No. 34-31438; File No. 265-17]

Market Oversight and Financial Services Advisory Committee

AGENCY: Securities and Exchange Commission.

ACTION: Notice of meeting of the Securities and Exchange. Commission Market Oversight and Financial Services Advisory Committee.

SUMMARY: This is to give public notice that the Securities and Exchange Commission Market Oversight and Financial Services Advisory Committee will conduct a meeting on December 1, 1992, at 9 a.m. in room 1C30 at the Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC. The meeting will be open to the public. This notice also serves to invite the public to submit written comments to the Committee.

ADDRESSES: Written comments should be submitted in triplicate and should refer to File No. 265-17. Comments should be submitted to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549.

FOR FURTHER INFORMATION CONTACT: Joseph E. Price, Senior Special Counsel, or Kevin M. Kirchoff, Senior Counsel, (202) 272-2428, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549.

SUPPLEMENTARY INFORMATION: In accordance with section 10(a) of the Federal Advisory Committee Act, 5 U.S.C. app. 2, 10(a), and the regulations thereunder, the Chairman has ordered publication of this notice that the Securities and Exchange Commission Market Oversight and Financial Services Advisory Committee will conduct a meeting on December 1, 1992, at the Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC., beginning at 9 a.m. This meeting will be open to the public. This will be the fourth meeting of the Advisory Committee. The purpose of the meeting will be to discuss regulatory

and legislative developments relating to the regulation of financial markets.

Dated: November 12, 1992.

Jonathan G. Katz,

Advisory Committee Management Officer.

[FR Doc. 92-27907 Filed 11-17-92; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-31426; File No. SR-CBOE-92-33]

Self-Regulatory Organizations; Filing and Immediate Effectiveness of Proposed Rule Change by the Chicago Board Options Exchange, Inc., Relating to Reduced Transaction Charges for Certain Index Option Spread Transactions

November 9, 1992.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on October 8, 1992, the Chicago Board Options Exchange, Inc. ("CBOE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the CBOE. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The CBOE has proposed to extend through December 31, 1992, a pilot program [1] which provides a 50% rebate on transaction and trade match fees for "box" [2] trades by public customers in Standard & Poor's 500 Stock Index options ("SPX"), provided the "box" trade totals 500 or more contracts for the four sides of the trade. The text of the proposed rule change is available at the Office of the Secretary, CBOE and at the Commission.

[1] The pilot program was first approved by the Commission on a three-month pilot basis, effective from July 1, 1991, through September 30, 1991. *See* Securities Exchange Act Release No. 29482 (July 24, 1991), 56 FR 36180. Since then, the pilot has been extended four times: (i) through December 31, 1991; (ii) through March 31, 1992; (iii) through August 31, 1992; and (iv) through October 15, 1992. *See* Securities Exchange Act Release Nos. 30025 (December 3, 1991), 56 FR 64537; 30288 (January 27, 1992), 57 FR 4226; 30857 (June 24, 1992), 57 FR 29543; and 31208 (September 22, 1992), 57 FR 44596.

[2] The CBOE defines a "box trade" as a four-sided SPX option spread composed of (i) a long call and short put at one strike price and (ii) a short call and long put at a different strike price, where all four positions expire in the same month.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the CBOE included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The CBOE has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

(1) Purpose

The CBOE proposed to extend, through December 31, 1992, a pilot program which provides a 50% rebate on transaction and trade match fees for "box" [3] trades by public customers in SPX options, provided the "box" trade totals 500 or more contracts for the four sides of the trade. The rebate is available to member firms that provide the Exchange with documents evidencing transactions that meet the standards of the pilot program. At the end of each month, member firms must submit their rebate requests to the Exchange's Accounting Department.

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act, in general, and furthers the objectives of Section 6(b)(4), in particular, in that it provides for the equitable allocation of reasonable dues, fees, and other charges among its members and those persons associated with its members.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The CBOE does not believe that the proposed rule 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

No written comments were solicited or received with respect to the proposed rule change.

[3] *See* note 2, *supra*, for the CBOE's definition of a "box" trade.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing rule change establishes or changes a due, fee or other charge imposed by the Exchange, it has become effective pursuant to Section 19(b)(3)(A) of the Act and subparagraph (e) of Rule 19b-4 thereunder.[4] At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the CBOE. All submissions should refer to the file number in the caption above and should be submitted by December 9, 1992.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 92-27866 Filed 11-17-92; 8:45 am]

BILLING CODE 8010-01-M

[4] The Commission has requested that the CBOE provide the Commission with certain information concerning its box spread rebate program by November 16, 1992. The Commission will not consider further extensions until this information is submitted and the Commission has had sufficient time to review the data.

[Release No. 34-31439; File No. SR-DTC-92-16]

Self-Regulatory Organizations; The Depository Trust Company; Notice of Filing of Proposed Rule Change Relating to the Deposit of Non-Transferable Securities

November 12, 1992.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] notice is hereby given that on October 14, 1992, the Depository Trust Company ("DTC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change (SR-DTC-92-16) as described in Items I, II, and III below, which Items have been prepared primarily by DTC. The Commission is publishing this notice to solicit comments from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

DTC is filing a proposed rule change establishing procedures for the deposit of non-transferable securities at DTC. The proposed procedures are as follows:

A. Deposit Procedures

When DTC announces to participants that an issue is "non-transferable," DTC will change the transfer agent number on DTC's records, which may be viewed by participants via DTC's Participant Terminal System, to reflect the fact that the issue is non-transferable. Participants will be permitted to deposit their DTC-eligible non-transferable securities by adhering to several procedures. Specifically, participants will be asked to:

(1) Send to their Participant Services Representative a copy of the Blanket Indemnification executed by an authorized officer. Procedures set forth in the Indemnification will, among other things, require the participant to verify with the Securities Information Center ("SIC") that the certificate has not been reported to SIC as lost, stolen, missing, or counterfeit.

(2) Use a Legal Deposit Ticket clearly marked "N/T." No more than ten certificates should be included in each individual deposit. Participants will be asked not to commingle types of registrations on a single deposit ticket (*i.e.*, all nominee-name and street-name registrations will be deposited under separate tickets).

(3) Check the certificates for assignment to Cede & Co., New York State tax waiver, endorsements, and other requirements, and provide the appropriate signature guarantees.

Inasmuch as all the deposits must be fully examined and indemnifications verified by DTC, the full-service legal examination fee (currently $4.07) will be charged per deposit.

B. Procedures for Sharing of Loss Related to Deposit of Non-Transferable Securities

DTC has considered how to handle the sharing of any loss in the event that a certificate that represents a non-transferable security is deposited at DTC and later, most likely after the reinstatement of transfer services and presentation of the certificate for transfer, is found to be stolen, counterfeit, or otherwise defective. If the depositing/indemnifying participant is still in business or if DTC is holding the participant's Participants Fund deposit in an amount sufficient to cover the loss, DTC will seek to charge the participant or its deposit. In the unlikely event in which at the time that DTC becomes aware of the loss: (1) The depositing participant has transferred the underlying securities by book-entry; (2) the participant does not itself cover the loss because it is not in business or for some other reason; and (3) the participant's Participants Fund deposit is not sufficient to cover the loss, then the loss will be allocated as follows.[2]

The loss will be shared *pro rata* among all participants that have a position in such issue on the date that DTC determines that the certificate is defective, excluding participants' positions, however, to the extent that positions existed on the day that DTC first announced to participants that the issue was "non-transferable." [3] For example, if a participant already held a position of 1,000 shares in an issue at the time that the issue was identified by DTC as being non-transferable and then acquires 500 additional shares later, any proportionate loss calculation would be only against the additional 500 shares and not against the 1,500 share total position.

By limiting the sharing of loss as set forth above, a more equitable result will be reached than if any such loss were mutualized among all participants.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, DTC 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. DTC 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 rule change is to establish procedures that will better enable DTC to provide depository services for non-transferable securities. DTC has two ongoing programs for the deposit of non-transferable securities. The first is for the redeposit of non-transferable securities registered in DTC's nominee name, Cede & Co., and was introduced primarily to allow participants to make book-entry deliveries of these redeposited securities. The second allows participants to cover short positions, and permits deposits of securities registered in Cede & Co., customer, or street name, While participants have availed themselves of these ongoing services, they have also asked that DTC accept deposits of all non-transferable securities, regardless of purpose. The procedures, forms, and loss allocation method described in this filing will, when implemented, replace those in the two ongoing programs and permit participants to deposit all DTC-eligible non-transferable securities at DTC, regardless of purpose, and allow them to make book-entry deliveries to one another where deliveries of physical certificate may not be possible.

The proposed rule change is consistent with the requirements of section 17A(b)(3)(A) of the Act in that it will facilitate the prompt and accurate clearance and settlement of securities transactions.

B. Self-Regulatory Organization's Statement on Burden on Competition

DTC does not believe that the proposed rule change will impose any

[1] 15 U.S.C. 78s(b)(1).

[2] Assuming that book-entry transfers have been made, it would not be possible to trace transfers and attribute the security positions represented by the defective certificate to particular participants. In the absence of a procedure to allocate losses, any such loss would, in effect, be shared by all participants.

[3] To assure that the effect of this proposal is prospective, this procedure applies to issues that become "non-transferable" at DTC subsequent to the SEC's approval of this procedure. In the event that the issue is already "non-transferable" as of the date that the Commission issues an order approving this procedure, DTC will instead exclude participant's positions to the extent that positions existed on the date of such approval order.

burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

On August 27, 1992, DTC issued a notice to its participants soliciting comments on the proposed rule change. The comments that DTC received were generally favorable. Participants and industry organizations indicated that the proposed procedure will allow participants to reduce their physical vault inventory, which will in turn allow them to reduce processing expense, audit time and interest expense that results from outstanding fails to deliver. This will eventually allow participants to minimize their total overhead by reducing staff and insurance costs. It was also pointed out that the proposed procedure would fall in line with industry efforts toward greater immobilization of securities certificates and with industry efforts to maximize efficiency in securities processing.

Participants also inquired whether DTC could arrange for special coding to aid them in differentiating between legal and regular deposits on an automated basis, and DTC is currently exploring whether it can do so. Questions were raised as to the restriction on the limit on the number and types of certificates deposited with each deposit ticket. DTC explained to its participants that the limit on the number of certificates deposited with each deposit ticket is intended to minimize the problems associated with the manual balancing of those deposits.

One participant suggested two alternatives to the proposed loss allocation method, indicating that losses should be borne by a broader range of participants. Another participant indicated, without suggesting an alternative, that perhaps the losses should not be borne by such a broad range of participants. No other participants voiced any dissatisfaction regarding the loss allocation method.

A question was raised as to the deposit fee. DTC has determined that the fee accurately reflects the cost of the special manual handling that DTC will provide for these certificates.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within thirty-five days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to ninety days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding, or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference 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 DTC. All submissions should refer to file number SR–DTC–92–16 and should be submitted by December 9, 1992.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92–27906 Filed 11–17–92; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–31427; File No. SR–NYSE–92–15]

Self-Regulatory Organizations; Filing of Proposed Rule Change by the New York Stock Exchange, Inc. Relating to Amendments to the Allocation Policy and Procedures

November 10, 1992.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. § 78s(b)(1), notice is hereby given that on June 18, 1992, the New York Stock Exchange, Inc. ("NYSE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change consists of amendments to the Exchange's Allocation Policy and Procedures.[1]

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspect of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(1) Purpose

The intent of the Exchange's Allocation Policy and Procedures is to ensure that each security is allocated in the fairest manner possible to the best specialist unit for that security. In order to enhance its stock allocation decisions, the Exchange conducts a periodic review of its allocation process. As the result of the Exchange's most recent review, a number of changes to the Allocation Policy and Procedures, discussed below, are being proposed.

The Exchange proposes to amend the policy to limit, to no more than 25%, the weight that the Specialist Performance Evaluation Questionnaire ("SPEQ") [2] may be given in the allocation decision making process. Currently, there is no limit on the weight that may be afforded to SPEQ results. The Allocation Committee would also consider objective measures of specialist

[1] The exact text of the proposed rule change was attached as Exhibit A to File No. SR–NYSE–95–15 and can be obtained at the places specified in Item IV below.

[2] The SPEQ is a quarterly survey on specialist performance completed by eligible floor brokers (*i.e.*, any floor broker with at least one year of experience). The SPEQ consists of 21 questions and requires floor brokers to rate, and provide written comments on, the performance of specialist units with whom they deal frequently. The Exchange currently has pending with the Commission a proposed rule change to amend the SPEQ (*see* File No. SR–NYSE–92–14).

performance [3] as well as its own professional judgment in making allocation decisions. In exercising this judgment, the Allocation Committee might consider, for example, such factors as recent listings received by the unit, capital available for marketmaking, listed company and member firm contacts, and disciplinary actions against the unit.

The allocation application is proposed to be revised to call for information about a specialist unit's contact during the six and twelve month periods with listed companies and NYSE member organizations.[4]

Pertaining to the SPEQ, the Exchange proposes to present SPEQ performance data to the Allocation Committee in four tiers, with units listed alphabetically in each comparable group. The exchange believes that a specialist unit that is closely associated to other units by its SPEQ scores should be given an equal opportunity, within that group, to compete for stock allocations.

The exchange believes that the allocation panel should consist of a core group of experienced, senior professionals and proposes to select a significant number of floor members on the panel from among the exchange's Senior Floor Officials, Floor Governors and former Allocation Committee Chairmen.

The Exchange proposes to amend the policy to eliminate specialist representation on the Allocation Committee.[5] The Exchange believes that the expertise brought to the Allocation Committee by specialists can be obtained from other committee members, and that the proposed amendment would eliminate any perceived advantage to the specialist on the Allocation Committee.

The Exchange's Allocation Committee, which is comprised of nine members, currently consists of six floor brokers, one specialist and two allied members.[6] The members are drawn from the allocation panel of 36 members. The eight specialists removed from the panel would be replaced by floor brokers. The Allocation Committee would consist of seven floor brokers and two allied members. For the Committee to act, a quorum of seven members, including one Governor and one allied member, would need to be present. Former Allocation Committee Chairman could act as substitutes.

The Exchange proposes to amend the policy to require that the Allocation Committee list be kept confidential and to prohibit Exchange members and investment bankers from initiating contact with Allocation Committee members regarding pending allocations. Allocation Committee members still would be permitted to initiate contact with any specialist if they felt it would be helpful to their decision making.

Pertaining to spin-offs, listings of related companies and relistings of securities, the Exchange proposes to amend the policy to state that the Exchange will honor the request of a listing company that it not be allocated to its former specialist unit, or the specialist in the parent or related company. All such listings would be open to all units for allocation.

The Exchange proposes to amend the policy to permit all current Allocation Committee members, including outgoing members, to vote for an incoming Allocation Committee Chairman. The current policy permits only members of the Committee who will be serving at the time of a Chairman's appointment to elect an incoming Chairman. The Exchange believes that outgoing members have gained valuable experience with candidates with whom they have been serving. These individual's input would broaden the scope of the election.

The Exchange proposes to delete, as obsolete, the objective performance measure pertaining to the Opening Automated Report Service contained in the policy. This performance measure was removed from Exchanged Rule 103A in 1990.[7]

The Exchange proposes to amend the policy to discontinue the practice of distributing a summary of reasons for each allocation decision to Exchange floor members. The Exchange will continue to publish allocation decisions for its membership and listing Companies.

The Exchange proposes to amend the policy to delete the reference to specific aspects of trading foreign issues on the Exchange Floor. The Exchange hopes to foster a broader range of understanding of foreign securities by its specialists.

Finally, the Exchange proposes to amend the Allocation Policy to standardize the agenda used to educate Allocation Committee Chairmen and members. While the Exchange believes that the current approach to education is working well, it wants to standardize the Exchange's training efforts to enhance consistency.

(2) Statutory Basis

The basis under the Act for this proposed rule change is the requirement under Section 6(b)(5) that an Exchange have rules that are designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system and in general, to protect investors and the public interest. The proposed amendments are consistent with these objectives in that they enable the Exchange to further enhance the process by which stocks are allocated to ensure fairness and equal opportunity in the process.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the proposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the Federal Register or within such other period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization, consents, the Commission will:

(A) by order approve the proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW.,

[3] Currently, the objective performance measures include (a) the timeliness of regular openings; (b) promptness in seeking floor official approval of a non-regulatory delayed opening; (c) timeliness of DOT turnaround; and (d) response to administrative messages.

[4] NYSE Rule 106 governs specialists' contact with listed companies and member organizations.

[5] Currently, one specialist representative serves on the nine member Allocation Committee.

[6] An allied member is a general partner, principal executive officer or employee who controls a member firm or member corporation.

[7] *See* Securities Exchange Act Release No. 28215 (July 17, 1990), 55 FR 30060 (order approving File No. SR-NYSE-90-24).

Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. § 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filings will also be available for inspection and copying at the principal office of the NYSE. All submissions should refer to File No. SR-NYSE-92-15 and should be submitted by December 9, 1992.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92-27865 Filed 11-17-92; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-31418; File No. SR-OCC-91-27]

Self-Regulatory Organizations, The Option Clearing Corp.; Notice of Proposed Rule Change Relating to Quarterly Index Expiration Options

November 6, 1992.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] notice is hereby given that on September 22, 1992, The Options Clearing Corp. ("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 mainly by OCC, a self-regulatory organization ("SRO"). The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. SRO's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change would allow for the issuance, clearance, and settlement of the Quarterly Index Expiration Options ("QIX") proposed for trading by the Chicago Board Options Exchange, Inc. ("CBOE") and the American Stock Exchange, Inc. ("Amex").

[1] 15 U.S.C. 78s(b)(1) (1988).

II. SRO's Statement of the Purpose of, and Statutory Basis for the Proposed Rule Change

In its filing with the Commission, the SRO included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The SRO has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. SRO's Statement of the Purpose of and Statutory Basis for, the Proposed Rule Change

The purpose of this rule change is to allow OCC to establish By-Laws and Rules which would accommodate the issuance, clearance, and settlement of QIX proposed for trading by the CBOE and Amex.[2] As explained in the CBOE's and Amex's filings, QIX are stock index options that have an expiration date different than the expiration date for currently traded stock index options. Currently, stock index options expire on the Saturday following the third Friday of the month. In contrast, QIX would expire on the first business day following the last day of the month. While the advent of QIX would necessitate some modifications to OCC's systems, QIX would be processed exactly like other index options and would be margined consistently with other index options but for the longer expiration date. The only significant modification to OCC's system is with respect to the fact that QIX, by its definition, will expire on a business day.

OCC proposes to handle the business day expiration similar to the way it currently handles Saturday exercise-by-exception ("ex-by-ex") processing with a minor modification. In the present Saturday expiration, OCC has the luxury of running a Preliminary and a Final Report for the Clearing Members to assist the Clearing Members in determining whether to follow the ex-by-ex processing.[3]

[2] File Nos. SR-CBOE-92-13 and SR-Amex-92-29.

[3] Ex-by-ex processing presumes that Clearing Members desire to exercise all options that are in-the-money by a certain threshold. Accordingly, it identifies all options as either in-the-money ("ITM") at-the-money, or out-of-the-money in a report provided to each Clearing Member (in either hard copy form or via C/MACS). The reports given to the Clearing Members reflect that the Clearing Members instruct OCC to exercise all ITM options. Clearing Members are then given the option to change any or all of the ITM instructions or to instruct OCC to exercise any ITM options that are not reflected as an ITM option in the report.

Because QIX expire on a business day, only one ex-by-ex report will be given to the Clearing Member at the beginning of the day.[4] By a threshold established by OCC,[5] the ex-by-ex report will reflect all QIX options that are in-the-money,[6] all QIX options that are at-the-money, and all QIX options that are out-of-the-money. The Clearing Member would be required to: (1) Review the report for accuracy (to ensure that all positions reflected in the report are correct); (2) make a determination that it has instructions from the customers to instruct the OCC to exercise all in-the-money QIX options in the customers' account;[7] (3) make determination that it either (a) concurs with the ex-by-ex processing to exercise all QIX positions reflected in the report (by not submitting any changes to the report), (b) submit changes to the report to instruct OCC to exercise more or less contracts than reflected as ITM positions in the report, or (c) submit changes to instruct OCC to exercise any QIX options that are not reflected as ITM in the report; and (4) make a determination that all exercise instructions as submitted by the Clearing Member in either the original or amended form are accurately reflected in the report.

Clearing Members would be required to submit the exercise instructions reflected in the report to OCC by the 7 p.m. cut-off time. Specific changes are identified below.

Proposed Amendments to OCC's By-Laws

Minor technical modifications have been made to Article XVII, Section 1 of OCC's By-Laws. First, OCC has modified the definition of "expiration date" to create an exception allowing for QIX. As proposed, the term "expiration date" will allow for some flexibility as the exchanges develop new products with flexible or varying expiration dates. Secondly, OCC has added a definition for QIX which

[4] Like the preliminary and final reports made available to the Clearing Members pursuant to Rule 805, this ex-by-ex report will be made available via C/MACS.

[5] There are two thresholds established by OCC for QIX, one for customer positions and the other for all other positions. This is consistent with what is in place for index options today.

[6] The ITM will be determined by taking the closing or opening value of the index and subtracting it from the exercise settlement value of the index.

[7] OCC notes that an interpretation and policy is being added to its Index Options Rules to remind Clearing Members that the administrative convenience of ex-by-ex processing does not relieve Clearing Members from obtaining the customer's instructions to exercise QIX in-the-money positions.

identifies the specific expiration date respecting that product. Lastly, OCC has alphabetized this section and has modified certain cross-references in the By-Laws to conform to the alphabetizing scheme.

Proposed Amendments to OCC's Rules

Chapter VIII

Since QIX was designed to be settled within OCC's current settlement system, OCC's current Rules need only minor modifications for the clearance and settlement of QIX. Currently, all options expire on a Saturday. The only options in the OCC system that have contemplated expirations on a business day are European-style Treasury options that were proposed for trading in 1985.[8] Accordingly, OCC Rules contemplate that European-style options can expire on a business day. QIX, however, are designed to expire only on a business day. As a result, OCC Rules 806, which referenced options that expire on a business day (with language limiting the same to European style options), has been broadened to include all styles of options, including capped options. Other than the change to generalize the styles of options, all other aspects of Chapter VIII have been preserved.

Chapter XVIII

A new subsection (b) to OCC Rule 1804 has been proposed to accommodate the expiration day processing procedure of QIX. As proposed, holders of QIX may exercise their QIX positions by tendering an exercise notice to OCC in accordance with the time frames established in OCC Rules 801(a) and 806, via OCC Rule 1804(b)(1), or be "deemed" exercised in accordance with a modified ex-by-ex procedure set forth in Rule 1804(b)(2). The ex-by-ex procedures would allow OCC to exercise all contracts that are in the money by $25.00 per index option contract carried in a customers' account or $1.00 per index option contract carried in any other account. As with other ex-by-ex procedures contained elsewhere in OCC's Rules, a Clearing Member may choose not to avail itself of these ex-by-ex procedures by instructing OCC not to exercise all or certain contracts identified as in-the-money in the ex-by-ex report. The identified thresholds established are part of the administrative procedures established by OCC to expedite its processing of exercises of expiring options. An interpretation and policy has been added to remind Clearing Members that, notwithstanding the ex-by-ex processing routine, Clearing Members still need instructions from their customers with respect to exercises.

OCC believes that the proposed rule change is consistent with the purposes and requirements of Section 17A of the Act [9] because it provides for the prompt and accurate clearance of QIX and facilitates the settlement of transactions in QIX. It does so by applying to QIX rules and procedures comparable to those that have been successfully used in the clearance and settlement of other index option products. Moreover, the proposed rule change is consistent with the safeguarding of funds and securities in OCC's custody or control or for which OCC is responsible in that it applies the same system of safeguards used by OCC for other products to QIX.

B. SRO's Statement on Burden on Competition

OCC believes that the proposed rule change would not impose any burden on competition.

C. SRO's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

OCC has not solicited written comments with respect to the proposed rule change, and none have been received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within thirty-five days of the date of publication of this notice in the **Federal Register** or within such longer period: (i) As the Commission may designate up to ninety days of such date if it finds such longer period to be appropriate and publishes its reason for so finding or (ii) as to such period that the SRO consents, the Commission will:

(A) By order approve such proposed rule change or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned SRO. All submissions should refer to File No. SR–OCC–92–27 and should be submitted by December 9, 1992.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[10]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92–27864 Filed 11–17–92; 8:45 am]

BILLING CODE 8010–01–M

[8] OCC notes that in 1986 the Commission approved rules proposed by OCC which would allow OCC to clear and settle European style Treasury options that expires on a business day. Securities Exchange Release No. 23004 (March 12, 1985), 51 FR 9563. That rule change was the genesis of OCC Rule 806 and the references to "business day expirations" that are in current OCC Rules.

[9] 15 U.S.C. 78q–1 (1989).

[10] 17 CFR 200.30–3(a)(12) (1991).

[Release No. 34–31419; File No. SR–OCC–92–33]

Self-Regulatory Organizations; The Options Clearing Corporation; Notice of Filing of a Proposed Rule Change Relating to Flexibly-structured Options

November 6, 1992.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] notice is hereby given that on September 22, 1992, The Options Clearing Corporation ("OCC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change (File No. SR–OCC–92–33) as described in Items I, II, and III below, which items have been prepared mainly by OCC, a self-regulatory organization ("SRO"). The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. SRO's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change would allow OCC to provide clearance and settlement of Flexibly-structured ("FLEX") options proposed for training by the Chicago Board Options Exchange ("CBOE").

[1] 15 U.S.C. 78s(b)(1) (1988).

II. SRO's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the SRO included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The SRO has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. SRO's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of this proposed rule change is to accommodate within OCC's existing By-Laws and Rules the clearance and settlement of FLEX proposed for trading by the CBOE.[2] As explained in the CBOE's filing, certain of the terms of FLEX options will be customized, within exchange-specified limits, by the parties to each FLEX option transaction. Specifically, parties could establish for each FLEX option trade the expiration date, the exercise style, the exercise price, the cap interval (in the case of capped style options), and the method to be used for establishing the current index value for purposes of settling expiration date exercises. In addition to customization, FLEX option transactions, particularly opening transactions in any currently unopened FLEX option series, will be sizeable transactions. Such opening transactions, for example, must have an underlying equivalent value of at least $10 million (approximately 250 SPX options), and closing transactions and secondary transactions in currently opened series, with certain exceptions, must have an underlying equivalent value of at least $1 million or more. Thus, FLEX options will differ from common exchange traded index options both in terms of customization and size.

OCC believes, however, that in virtually all important respects from a clearance and settlement perspective, FLEX options can be treated and proceeded like any other index option. As noted in the CBOE's proposed rule change, FLEX options will be traded at this time only in two index option classes, options on the Standard and Poor's ("S&P") 100 and the S&P 500. These are classes of index options that OCC already clears, and each FLEX option transaction will consist of a stated number of index options in one class or the other. Further, at the point in time that a FLEX option transaction is reported to OCC by the CBOE, all the terms of that option will have been established in the CBOE's report, and virtually all its term categories will correspond to existing index options term categories. As a result, on receipt of a matched trade report from the CBOE or other exchange, OCC will establish long and short FLEX option positions in Clearing Member accounts in precisely the same way it does for common index options. FLEX option positions will exhibit virtually the same characteristics as common index options.

OCC believes that, given those facts, only a limited number of OCC's By-Laws and Rules will need adjustment to accommodate FLEX options. The principal changes will involve OCC's By-Laws and Rules respecting index options. Additionally, one change is necessary to OCC's non-equity option margin provisions, and two largely technical changes are necessary to Section 10(b) of Article VI of OCC's By-Laws. A description of each of these proposed changes follows.

Proposed changes to Section 10(b) of Article VI [Clearance of Exchange Transactions] of OCC's By-Laws are designed: (1) To remove any implication that, in the case of FLEX options, only the expiration date and exercise price are to be determined by CBOE when a new series of FLEX options is opened for trading and (2) to make it clear that notice to OCC of the terms of any newly-opened series of FLEX options need to be made by CBOE not later than 4:30 p.m. Central Time on the day on which the FLEX option series is opened for trading. These changes eliminate any disparities that might otherwise exist between Section 10(b) of Article VI as currently written and the changes that are proposed to be made to other OCC's By-Laws and Rules in this filing.

Second, OCC proposes to add new definitions and to revise existing definitions in Section 1 of Article XVIII [Index Options] of OCC's By-Laws. These changes are designed specifically to facilitate clearance and settlement of FLEX options as separate index option classes. In particular, definitions of the terms "FLEX Option" and "Index Value Department" ("IVD") will be added, and the term "Class of Options" will be modified. These new terms are necessary to facilitate clearance of FLEX options as index options while at the same time enabling each FLEX option transaction to be reported to OCC with various customized terms, including an IVD.

An IVD is defined in this proposal as an indication in the exchange's report of a matched trade of the method to be used to establish the current index value for purposes of settling the FLEX option exercised on its expiration date. Additionally, the term "Class of Options" is redefined to enable OCC to treat each FLEX option having a different IVD as a separate class. Since FLEX options having different IVDs are not fungible, these amendments are necessary, in part, to avoid intermingling nonfungible FLEX options during exercise and assignment processing.

Also proposed is a change to Section 5 [Time for Determination of Current Index Value] of Article XVII [Index Options] of OCC's By-Laws that will confirm that an exchange shall, in connection with settlement of an exercised FLEX option contract, supply OCC with the appropriate current index value. OCC states that absent such a change, it would not be clear whether OCC could use a current index value other than the closing value in setting the exercise settlement amount for an expiring FLEX option. In addition, the proposed amendment to Section 5 of Article XVII will clarify that the IVD is applicable only for expiration date exercises. For exercises of FLEX options on days other than the expiration date, the exercise settlement amount will be determined by reference to the closing value of the applicable index.

In addition to the foregoing By-Law changes, the proposal also makes the following changes to OCC's Rules. Section (c) of Rule 801 [Exercise of Options] is amended to confirm that expiring FLEX options that meet the parameters set forth in Section (c) of Rule 1804 [Expiration Date Exercise Procedure for Index Options] will be automatically exercised on the expiration date in accordance with Rule 1804(c). In turn, Rule 1804(c), as proposed, provides that the procedures set forth in Rule 806 [Expiration Date Procedure for Business Day Expiration] will apply to expiration date exercise processing except that all FLEX options that are in the money on expiration date will be automatically exercised. OCC has selected Rule 806 as the cross-reference rule, rather than Rule 805 [Expiration Date Exercise Procedure] because Rule 806 contains a more abbreviated, single-report approach to exercise processing, which seems more workable for FLEX options. OCC believes that such an approach, together with the automatic exercise feature, will

[2] Securities Exchange Act Release No. 31361 (October 27, 1992), 57 FR 52655 (notice of filing of proposed rule change) [File No. SR–CBOE–92–17].

reduce paper-handling risks and increase the ease and efficiency of expiration date exercise processing.

The definition of the term "premium margin" in Section (b) [Definitions] of Rule 602 [Margins of Positions in Non-Equity Options, Market Baskets and Commodity Options and Futures] will be amended to increase the factors and data that OCC may use in deriving a "premium quotation" for each unexercised long or unassigned short position in FLEX options. This change is designed to take into account the possibility that on any given day trading activity in currently opened series of FLEX options may not occur. In OCC's judgment, that possibility requires OCC to be prepared to derive a premium quotation for each FLEX options that Clearing Members have unexercised long or unassigned short positions by extrapolating and interpolating from information about trading activity and quotations in other series of index options. Accordingly, when no premium quotation is available in FLEX options in a given series on a particular day, OCC will, among other things, identify comparable index options series covering the same index group, determine implied volatilities and relevant pricing-related information for each comparable series, and calculate a derived value for each FLEX option. OCC believes that such an approach, using OCC's existing TIMS analytic logic, will provide OCC with a secure method to derive appropriate marking prices and set premium margin levels for all FLEX options.

Other aspects of OCC's existing margin scheme for index options, including provisions in Rule 602(b)(4)(B) specifying the method for calculating premium margin on exercised and margined positions, the definition of the term "marking price" in Rule 602(b)(6), and the margin calculation formulae in Rule 602(c) and (d), appear to be workable for FLEX options without amendment. Because OCC is sensitive to the adverse effects on collateralization that uncertain liquidity in FLEX options trading could entail, OCC plans to monitor and test the adequacy of its margin program in the light of FLEX trading activity and is prepared to make any further adjustments not now foreseen that experience may dictate.

OCC believes that the proposed rule change is consistent with the purposes and requirements of section 17A of the Act [3] because it is designed to provide for the prompt and accurate clearance and settlement of transactions in FLEX options and the safeguarding of related securities and funds. The proposed rule change meets such requirements by establishing a framework in which existing and reliable OCC systems, rules, and procedures are extended to the processing of FLEX options. Finally, the proposed rule change will foster cooperation and coordination with persons, including OCC Clearing Members, engaged in the clearance and settlement of securities transactions and will thereby promote the protection of investors and the public interest.

B. SRO's Statement on Burden on Competition

OCC believes that the proposed rule change will not impose any burden on competition.

C. SRO's Statement on Comments on the Proposed Rule Change Received from members, Participants, or Others

Written comments were not and are not intended to be solicited with respect to the proposed rule change, and none have been received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within thirty-five days of the date of publication of this notice in the **Federal Register** or within such longer period: (i) As the Commission may designate up to ninety days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the SRO consents, the Commission will:

(A) By order approve such proposed rule change or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference 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 File No. SR-OCC-92-33 and should be submitted by December 15, 1992.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[4]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92-27905 Filed 11-17-92; 8:45 am]

BILLING CODE 8010-01-M

[3] 15 U.S.C. 78q-1 (1988).

[4] 17 CFR 200.30-3(a)(12) (1991).

SMALL BUSINESS ADMINISTRATION

Round Table Capital Corp.; Notice of License Surrender

[Licensee No. 09/09-0262]

Notice is hereby given that Round Table Capital Corp., ("RTCC"), 655 Montgomery Street, San Francisco, CA, has surrendered its license to operate as a small business investment company under the Small Business Investment Act of 1958, as amended ("the Act"). RTCC was licensed by the Small Business Administration on April 28, 1980.

Under the authority vested by the Act and pursuant to the regulations promulgated thereunder, the surrender of the license was accepted on October 30, 1992, and accordingly, all rights, privileges, and franchises derived therefrom have been terminated.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: November 9, 1992.

Wayne S. Foren,

Associate Administrator for Investment.

[FR Doc. 92-27894 Filed 11-17-92; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF STATE

Secretary of State's Advisory Committee on Private International Law; Annual Meeting and Review of Developments in Private International Law

[Public Notice 1719]

The Secretary of State's Advisory Committee on Private International Law (ACPIL) will hold its annual meeting on Friday, December 11, 1992 from 9:30 a.m. to 5 p.m. at the Department of State in Washington, DC.

The purpose of the meeting will be to review trends and developments in the private international law (PIL) field and consider future topics and work efforts that should be undertaken on unification of private law at the international level. The meeting agenda will include a review of some of the developments in international organizations specializing in this field of work, including the Hague Conference on Private International Law, the United Nations Commission on International Trade Law (UNCITRAL), the Inter-American Specialized Conferences on Private International law (CIDIP) sponsored by the Organization of American States (OAS), the International Institute for Unification of Private Law (UNIDROIT), and other international organizations as appropriate.

Several law harmonization projects of the Hague Conference on Private International Law will receive special attention in view of the coming 100th anniversary of that organization's first session in 1893. These include a U.S. proposal that a convention be prepared on recognition and enforcement of foreign judgments; a proposal by other states for the drafting of a convention on law applicable to civil liability for environmental damage; and the expected conclusion at the Hague Conference's 17th Session in May 1993 of work on a convention on intercountry adoption of children. Proposals that rules be prepared on international bankruptcy will be reviewed, following recommendations for such an effort made at an UNCITRAL symposium on "International Commercial Law for the 21st Century". Two recently adopted international legal texts—a UN model law on international credit transfers and a UN legal guide on countertrade will be commented on. Additional topics may be discussed.

Copies of relevant documents may be requested from the Legal Adviser's Office by contacting Harold S. Burman by fax at (202) 653–9854 or by writing to the Office of the Legal Adviser (L/PIL), suite 501, 2100 K Street, NW., Washington, DC 20037–7180.

Members of the general public may attend up to the capacity of the meeting room and participate subject to the direction of the Chair. The meeting will be held in Conference Room 1107 at the State Department; participants must use the main entrance to the Department at 22d and C Streets, NW. As access to the building is controlled, the office indicated above must be notified not later than Friday, December 4 of the name, affiliation, address and social security number of persons wishing to attend. In order to facilitate planning for the meeting, members of the public are requested to indicate particular issues, if any, on which they expect to comment. Persons interested but unable to attend the meeting are welcome to request documents and to submit comments or proposals to the address indicated above.

Dated: November 6, 1992.

Peter H. Pfund,

Vice-Chair, Secretary of State's Advisory Committee on Private International Law.

[FR Doc. 92–27871 Filed 11–17–92; 8:45 am]

BILLING CODE 4710–08–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Approval of Noise Compatibility Program, Monroe Regional Airport, Monroe, LA

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice.

SUMMARY: The Federal Aviation Administration (FAA) announces its findings on the Noise Compatibility Program submitted by the city of Monroe, Louisiana under the provisions of Title I of the Aviation Safety and Noise Abatement Act of 1979 (Public Law 96–193) and CFR part 150. These findings are made in recognition of the description of Federal and nonfederal responsibilities in Senate Report No. 96–52 (1980). On July 13, 1990, the FAA determined that the noise exposure maps submitted by the city of Monroe, Louisiana under part 150 were in compliance with applicable requirements. On August 28, 1992, the Administrator approved the Noise Compatibility Program. All of the recommendations of the program were approved.

EFFECTIVE DATE: The effective date of the FAA's approval of the Monroe Regional Airport Noise Compatibility Program is August 28, 1992.

FOR FURTHER INFORMATION CONTACT: Dean A. McMath, Department of Transportation, Federal Aviation Administration, 4400 Blue Mound Road, Fort Worth, Texas, 76193–0610, (817) 624–5594. Documents reflecting this FAA action may be reviewed at this same location.

SUPPLEMENTARY INFORMATION: This notice announces that the FAA has given its overall approval to the Noise Compatibility Program for Monroe Regional Airport, Monroe, Louisiana, effective August 28, 1992.

Under section 104(a) of the Aviation Safety and Noise Abatement Act of 1979 (hereinafter referred to as "the Act"), an airport operator who has previously submitted a noise exposure map may submit to the FAA a Noise Compatibility Program which sets forth the measures taken or proposed by the airport operator for the reduction of existing noncompatible land uses within the area covered by the noise exposure maps. The Act requires such programs to be developed in consultation with interested and affected parties including local communities, government agencies, airport users, and FAA personnel.

Each airport Noise Compatibility Program developed in accordance with Federal Aviation Regulations (FAR) part 150 is a local program, not a Federal program. The FAA does not substitute its judgment for that of the airport proprietor with respect to which measures should be recommended for action. The FAA's approval or disapproval of FAR part 150 program recommendations is measured according to standards expressed in part 150 and the Act and is limited to the following determinations:

a. The Noise Compatibility Program was developed in accordance with the provisions and procedures of FAR Part 150.

b. Program measures are reasonably consistent with achieving the goals of reducing existing noncompatible land uses around the airport and preventing the introduction of additional noncompatible land uses.

c. Program measures would not create an undue burden on interstate or foreign commerce, unjustly discriminate against types or classes of aeronautical uses, violate the terms of airport grant agreements, or intrude into areas preempted by the Federal Government.

d. Program measures relating to the use of flight procedures can be implemented within the period covered by the program without derogating safety, adversely affecting the efficient use and management of the navigable airspace and air traffic control systems, or adversely affecting other powers and responsibilities of the Administrator prescribed by law.

Specific limitations with respect to FAA's approval of an airport Noise Compatibility Program are delineated in FAR part 150, § 150.5. Approval is not a determination concerning the acceptability of land uses under Federal, state, or local law. Approval does not by itself constitute an FAA implementing action. A request for Federal action or approval to implement specific noise

compatibility measures may be required, and an FAA decision on the request may require an environmental assessment of the proposed action. Approval does not constitute a commitment by the FAA to financially assist in the implementation of the program nor a determination that all measures covered by the program are eligible for grant-in-aid funding from the FAA. Where Federal funding is sought, requests for project grants must be submitted to the FAA Airports Division Office in Fort Worth, Texas.

The city of Monroe, Louisiana submitted to the FAA on June 27, 1990, the noise exposure maps, descriptions, and other documentation produced during the noise compatibility planning study conducted from May 10, 1988 through December 27, 1991. The Monroe Regional Airport noise exposure maps were determined by FAA to be in compliance with applicable requirements on July 13, 1990. Notice of this determination was published in the **Federal Register** on July 25, 1990.

The Monroe Regional Airport noise compatibility study contains a proposed Noise Compatibility Program comprised of actions designed for phased implementation by airport management and adjacent jurisdictions from the date of study completion to, or beyond the year 1994. It was requested that the FAA evaluate and approve this material as a Noise Compatibility Program as described in section 104(b) of the Act. The FAA began its review of the program on March 2, 1992 and was required by a provision of the Act to approve or disapprove the program within 180 days (other than the use of new flight procedures for noise control). Failure to approve or disapprove such program within the 180-day period shall be deemed to be an approval of such program.

The submitted program contained 13 proposed actions for noise mitigation on and off the airport. The FAA completed its review and determined that the procedural and substantive requirements of the Act and FAR Part 150 have been satisfied. The overall program, therefore, was approved by the Administrator effective August 28, 1992.

Outright approval was granted for all of the specific program elements. One program element involved the continued voluntary preferential runway use of Runway 4/22. The other 12 program elements involved policy and/or planning considerations on the parts of the city of Monroe and Ouachita Parish.

These determinations are set forth in detail in a Record of Approval endorsed by the Administrator on August 28, 1992. The Record of Approval, as well as other evaluation materials and the documents comprising the submittal, are available at the FAA office listed above and at the administrative offices of the Monroe Regional Airport.

Issued in Fort Worth, Texas, September 11, 1992.

Otis T. Welch,

Acting Manager, Airports Division.

[FR Doc. 92-27922 Filed 11-17-92; 8:45 am]

BILLING CODE 4910-13-M

Approval of Noise Compatibility Program Orlando Executive Airport; Orlando, FL

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice.

SUMMARY: The Federal Aviation Administration (FAA) announces its findings on the Noise Compatibility Program submitted by the Greater Orlando Aviation Authority under the provisions of Title I of the Aviation Safety and Noise Abatement Act (ANSA) of 1979 (Public Law 96-193) and 14 CFR part 150. These findings are made in recognition of the description of Federal and nonfederal responsibilities in Senate Report No. 96-52 (1980). On February 13, 1991, the FAA determined that the noise exposure maps submitted by the Greater Orlando Aviation Authority under part 150, were in compliance with applicable requirements. On April 24, 1992, the FAA determined that the revised future noise exposure map submitted by the Greater Orlando Aviation Authority under part 150 was in compliance with applicable requirements. On October 21, 1992, the Administrator approved the Orlando Executive Airport Noise Compatibility Program. Six (6) of the seven (7) recommendations of the program were approved in full. One (1) recommendation was partially approved and partially disapproved pending submission of additional information to make an informed analysis. No program elements relating to new or revised flight procedures for noise abatement were proposed by the airport operator.

EFFECTIVE DATE: The effective date of the FAA's approval of the Orlando Executive Airport Noise Compatibility Program is October 21, 1992.

FOR FURTHER INFORMATION CONTACT: Tommy J. Pickering, P.E., Federal Aviation Administration, Orlando Airports District Office, 9677 Tradeport Drive, Suite 130, Orlando, Florida 32827-3596, (407) 648-6583. Documents reflecting this FAA action may be reviewed at this same location.

SUPPLEMENTARY INFORMATION: This notice announces that the FAA has given its overall approval to the Noise Compatibility Program for Orlando Executive Airport, effective October 21, 1992.

Under section 104(a) the Aviation Safety and Noise Abatement Act (ASNA) of 1979 (hereinafter referred to as "the Act"), an airport operator who has previously submitted a noise exposure map may submit to the FAA a noise compatibility program which sets forth the measures taken or proposed by the airport operator for the reduction of existing noncompatible land uses and prevention of additional noncompatible land uses within the area covered by the noise exposure maps. The Act requires such program to be developed in consultation with interested and affected parties including local communities, government agencies, airport users, and FAA personnel.

Each airport noise compatibility program developed in accordance with Federal Aviation Regulations (FAR) part 150 is a local program, not a Federal program. The FAA does not substitute its judgment for that of the airport proprietor with respect to which measures should be recommended for action. The FAA's approval or disapproval of part 150 program recommendations is measured according to the standards expressed in part 150 and the Act, and is limited to the following determinations:

a. The noise compatability program was developed in accorance with the provisions and procedures of FAR part 150;

b. Program measures are reasonably consistent with achieving the goals of reducing existing noncompatible land uses around the airport and preventing the introduction of additional noncompatible land uses;

c. Program measures would not create an undue burden on interstate or foreign commerce, unjustly discriminate against types or classes of aeronautical users, violate the terms of airport grant agreements, or intrude into areas preempted by the Federal government; and

d. Program measures relating to the use of flight procedures can be implemented within the period covered by the program without derogating safety, adversely affecting the efficient use and management of the navigable airspace and air traffic control systems, or adversely affecting other powers and

responsibilities of the Administrator prescribed by law.

Specific limitation with respect to FAA's approval of an airport noise compatibility program are delineated in FAR part 150, section 150.5. Approval is not a determination concerning the acceptability of land uses under Federal, state, or local law. Approval does not by itself constitute an FAA implementing action. A request for Federal action or approval to implement specific noise compatability measures may be required, and an FAA decision on the request may require an environmental assessment of the proposed action. Approval does not constitute a commitment by the FAA to financially assist in the implementation of the program nor a determination that all measures covered by the program are eligible for grant-in-aid funding from the FAA. Where Federal funding is sought, requests for project grants must be submitted to the FAA Airports District Office, Orlando, Florida.

The Greater Orlando Aviation Authority submitted to the FAA on June 11, 1991, December 6, 1992, and January 31, 1992, the noise exposure maps, descriptions, and other documentation produced during the noise compatability planning study conducted from April 13, 1989, through April 20, 1992. The Orlando Executive Airport noise exposure maps were determined by FAA to be in compliance with applicable requirements on February 13, 1992. As part of the Noise Compatability Program, a revised future noise exposure map was submitted to FAA under part 150 on April 20, 1992, and the FAA determined that the revised map was in compliance with applicable requirements on April 24, 1992. Notice of these determinations was published in the **Federal Register** on February 25, 1991, for the noise exposure maps and May 12, 1992, for the revised future noise exposure map.

The Orlando Executive Airport study contains a proposed Noise Compatbility Program comprised of actions designed for phased implementation by airport management and adjacent jurisdictions from the date of study completion to the year 1994. It was requested that FAA evaluate and approve this material as a Noise Compatability Program as described in section 104(b) of the Act. The FAA began its review of the program on April 24, 1992, and was required by a provision of the act to approve or disapprove the program within 180 days (other than the use of new flight procedures for noise control). Failure to approve or disapprove such program within the 180-day period shall be deemed to be an approval of such program.

The submitted program contained seven (7) proposed actions for noise mitigation on and off the airport. The FAA completed its review and determination that the procedural and substantive requirements of the Act and FAR part 150 have been satisfied. The overall program, therefore, was approved by the Administrator effective October 21, 1992.

Outright approval was granted for six (6) of the seven (7) specific program elements. One (1) element was partially approved and partially disapproved for the purposes of part 150 pending submission of additional information to make an informed analysis. The approval action was for the following program elements:

Measure	Description	NCP Pages
	Noise Abatement Actions	
NA-1	*Modification of Helicopter Flight Tracks.* Modify rotor-wing aircraft flight tracks to direct northbound flights over Bennet Road and the Naval Training Center and other flights along Colonial Drive (Highway 50) or the East-West Expressway to avoid residential areas. Conduct semi-annual meetings between noise abatement staff, all helicopter operators and air traffic personnel to discuss routings, procedures and responsibilities. Prepare and distribute informational handouts which illustrate the preferred routings and identify key roads and geographic features. FAA Action: *Approved.*	pp 12-2 to 12-4, 14-1, exhibit 12-1 and response to FAA comments on the OEA Part 150 Study
NA-2	*Prohibit Intersection Takeoffs (Runway 25).* Prohibit intersection takeoffs on Runway 25. FAA Action: Approved.	pp 12-5 to 12-7, 14-1, table 12-1 and response to FAA comments on the OEA Part 150 Study
NA-3	*Noise Abatement Takeoff Procedures.* Current noise abatement rules require that jet aircraft use the National Business Aircraft Association's (NBAA) "close-in" departure procedure or an equivalent procedure developed by an aircraft manufacturer. This action proposes to install signs along taxiways near the thresholds of all runways to remind pilots to use noise abatement procedures, develop a standard terminology that air traffic control personnel could use to advise operators of jet aircraft to use noise abatement procedures, prepare and distribute pamphlets that explain the Airport's noise abatement procedures and place a brief description of the Airport's noise abatement procedures on the airport's Automatic Terminal Information Service (ATIS) broadcasts. FAA Action: *Approved.* The content and location of airfield signs are subject to specific approval by appropriate FAA officials outside of the part 150 process and are not approved in advance by this action.	pp 12-7 to 12-9, 14-2, 14-3, table 12-2 and response to FAA comments on the OEA Part 150 Study

Measure	Description	NCP Pages
NA–4	*Nighttime Restrictions.* Four nighttime noise restrictions are submitted for FAA approval under 14 CFR part 150. These restrictions are being implemented in a voluntary fashion. The NCP originally proposed that the voluntary measures be made mandatory through imposition of new enforcement penalties as recommended in the NCP. The airport operator withdrew the mandatory enforcement recommendation by letter of October 15, 1992. The first restriction submitted in the part 150 NCP would prohibit operations by aircraft during specific hours that are certified as emitting greater than 88 EPNdB on departures and inform pilots of the restrictions by making available a pamphlet describing the restriction and other noise abatement actions to all pilots using the airport and by requesting all based aircraft owners to register all based aircraft with the noise abatement officer. The specific hours of operation for this restriction would be 11 p.m.-6 a.m. for 1992. 10:30 p.m.-6:30 a.m. for 1993 and 10 p.m.-7 a.m. beginning in 1994. FAA Action: *Approved as a voluntary measure.* The documentation states that voluntary compliance with this restriction has resulted in noticeable benefits to the surrounding community. The second and third restrictions would prohibit jet and turboprop touch-and-go operations and practice approaches during the hours of 10 p.m. to 7 a.m. FAA Action: *Disapproved pending submission of additional information to make an informed analysis.* The information provided in the NCP and supplemental response by the airport operator is unclear on the specific benefits derived from prohibition of nighttime training. Also, it is not clear whether a shift in operations would merely redistribute nighttime noise over other noncompatible areas, whether it would impact normal operations at the other airport(s), or whether there would be an undue burden on the aircraft operators forced to relocate. The fourth restriction would prohibit maintenance run-ups of aircraft engines between the hours of 11 p.m. and 6 a.m. but would not prohibit pre-takeoff engine checks. The Orlando City Code currently contains this restriction. FAA Action: *Approved.*	pp 12–9 to 12–16, 14–3 to 14–5, tables 12–3 and 12–4, exhibits 12–2 to 12–10, response to FAA comments on the OEA Part 150 Study, and October 15, 1992 letter from the airport operator Also see supplemental information submitted to FAA September 2, 1992
	Program Management Actions	
PM–1	*Noise Monitoring System.* Install a noise monitoring system for the purpose of identifying noise events and aircraft which generate the event. FAA Action: *Approved.* This approval does not extend to the use of the noise monitoring system to enforce the above recommended restrictions which have not been approved.	pp 14–3, 14–5 and response to FAA comments to the OEA Part 150 Study
	Land Use Actions	
LU–1	*Overlay zoning.* Modify current noise ordinances by Orange County and the City of Orlando to include Land Use Guidance (LUG) charts for Orlando Executive Airport to specify allowable land uses inside the noise zones, to require dedication of aviation easements for any proposed residential construction that does not conform to the land use guidelines, to require certain sound level reduction criteria to be met by all new residential construction and to require noise disclosure for the sale of all dwellings located in the noise zones. FAA Action: *Approved.* It is noted that this is a local deviation from Table 1 of 14 CFR part 150.	pp 13–1 to 13–6, 14–6, exhibit 13–1, table 13–1 and response to FAA comments on the OEA Part 150 Study
LU–2	*Sound Insulation Program.* The City of Orlando will implement a sound insulation program for dwellings located in the 65 DNL noise contour under future abated conditions (approximately 196 units). FAA Action: *Approved.*	pp 13–10, 13–11, 14–6 and response to FAA comments on the OEA Part 150 study

These determinations are set forth in detail in a Record of Approval endorsed by the Administrator on October 21, 1992. The Record of Approval, as well as other evaluation materials and the documents comprising the submittal, are available for review at the FAA office listed above and at the administrative offices of the Greater Orlando Aviation Authority.

Issued in Orlando, Florida on November 3, 1992.

Charles E. Blair,

Manager, Orlando Airports District Office.

[FR Doc. 92–27923 Filed 11–17–92; 8:45 am]

BILLING CODE 4910–13–M

Federal Highway Administration

Environmental Impact Statement: Boston, Massachusetts

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of Intent.

SUMMARY: The FHWA is issuing this notice to advise the public that a Supplemental Environmental Impact Statement on the Charles River Crossing will be prepared for the Central Artery/Tunnel project in Boston, Massachusetts.

FOR FURTHER INFORMATION CONTACT: Dan Berman, CA/T Project Manager, Federal Highway Administration, 55 Broadway, 10th Floor, Cambridge, MA 02141, Telephone: (617) 494–2319.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Massachusetts Highway Department, will prepare the Supplemental Environmental Impact Statement (SEIS) on an interchange design revision in the area north of Causeway Street (commonly known as the Charles River Crossing), a part of the Central Artery/Tunnel Project. The original FSEIS for the improvements (FHWA–MA–EIS–82–02–FS2) was approved on May 10, 1991.

In the Federal Highway Administration (FHWA) Record of Decision for the Central Artery (I–93)/Tunnel (I–90) Project, dated May 10, 1991, the design of the I–93/State Route 1/Storrow Drive interchange design in the area north of Causeway Street, known as "Scheme Z" was approved with the understanding that the design decision would remain open through the project development process to take advantage of new information that may

help mitigate environmental impacts in the Charles River Crossing area

As approved in the Record of Decision, Scheme Z would meet the existing I–93 double-deck viaduct in Charlestown approximately 2,000 feet north of the Gilmore Bridge. Three new parallel bridges, with a total of 16 lanes would cross the Charles River. The I–93 mainline lanes on viaducts would gradually descend into tunnels at Causeway Street. A major new interchange would be constructed in Charlestown and east Cambridge to connect I–93 northbound and southbound to points east and west. The interchange would be an intricate network of viaduct structures. Many of the proposed ramps would connect to existing ramps, constructed for the Central Artery North Area (CANA) Project, for access to streets in Charlestown and to Route 1. Other ramps would provide connections to Leverett Circle and Storrow Drive via a new connector over the Charles River on a double decked bridge, west of the two new I–93 mainline parallel bridges. The ramps would connect to surface streets and pass under Leverett Circle in two tunnels for connections to and from Storrow Drive.

On September 29, 1992, a citizen's advisory committee (the Bridge Design Review Committee) that was established by the Massachusetts Secretary of Transportation in early 1991 to study potential bridge design and other modifications to the Charles River crossing unanimously approved a revised Charles River Crossing. FHWA intends to file a supplemental environmental impact statement that describes the impacts of the Bridge Design Review Committee's recommended revision to the Area North of Causeway Street portion of the approved Central Artery/Tunnel Project.

As proposed by the Massachusetts Highway Department and endorsed by the Bridge Design Review Committee, the revised Charles River Crossing now extends further north on I–93 to just south of Sullivan Square in Somerville. An exclusive high-occupancy vehicle lane will be located on I–93 southbound from Sullivan Square to the north bank of the Charles River. A cable-stayed bridge with a single twin-legged tower would carry 10 lanes of traffic across the Charles River. The I–93 mainline lanes would gradually descend into a tunnel at Causeway Street. A smaller interchange would be constructed in Charlestown and east Cambridge to connect I–93 northbound and southbound to points east and west. Connections between Leverett Circle/Storrow Drive and the I–93 mainline lanes will be via land-based tunnels on either side of the river and one three-lane tunnel under the Charles River. The tunnels would require a new ventilation building between the new Boston Garden site and the south bank of the Charles River. On the north bank of the Charles River, the new interchange would connect I–93 to Route 1 via a new tunnel built separately as part of the Central Artery North Area Project.

Additional analyses to support the disclosure of impacts of this proposed revision will be prepared and are anticipated to include the following: Analytical and physical air quality modeling; reevaluation of noise monitoring; additional traffic analyses; reevaluation of Section 4(f) analysis; assessment of impacts to aquatic resources in the Charles and Millers Rivers; and evaluation of materials disposal options.

A scoping meeting to discuss the potential environmental impacts of the revised Charles River Crossing will be held on Wednesday, December 9, 1992, from 9 am to 12 pm and again at 6 pm to 7 pm at the Central Artery/Tunnel Project offices, One South Station, Conference Rooms #1 and 2, Fifth Floor, Boston, MA 02110. Written comments received under the state MEPA process will be incorporated into this NEPA scoping process.

In addition, a public hearing will be held in 1993 to receive verbal comments regarding the draft supplemental environmental impact statement. Public notice will be given of the time and place of the public hearing. The draft SEIS will be available for public and agency review and comment prior to the public hearing.

To provide that a full range of issues related to this Revised Proposed Action are addressed and all significant issues are identified, comments and suggestions regarding this scoping session are invited from all interested parties. Comments or questions concerning this Revised Proposed Action and the FSEIS should be directed to the FHWA at the above address.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental programs and activities apply to this program.)

Issued on: November 10, 1992.

Dan Berman,

Central Artery/Tunnel Project Manager, Federal Highway Administration.

[FR Doc. 92–27863 Filed 11–17–92; 8:45 am]

BILLING CODE 4910–22–M

Federal Transit Administration

FTA Sections 3 and 9 Grant Obligations

AGENCY: Federal Transit Administration (FTA), DOT.

ACTION: Notice.

SUMMARY: The Department of Transportation and Related Agencies Appropriations Act, 1993, Public Law 102–338, signed into law by President George Bush on October 6, 1992, contains a provision requiring the Federal Transit Administration (FTA) to publish an announcement in the **Federal Register** every 30 days of grants obligated pursuant to Sections 3 and 9 of the Federal Transit Act, as amended. The statute requires that the announcement include the grant number, the grant amount, and the transit property receiving each grant. This notice provides the information as required by statute.

FOR FURTHER INFORMATION CONTACT: Janet Lynn Sahaj, Chief, Resource Management and State Programs Division, Office of Capital and Formula Assistance, Department of Transportation, Federal Transit Administration, Office of Grants Management, 400 Seventh Street, SW., room 9305, Washington, DC 20590, (202) 366–2053.

SUPPLEMENTARY INFORMATION: The Section 3 program provides capital assistance to eligible recipients in three categories: Fixed guideway modernization, construction of new fixed guideway systems and extensions, and bus purchases and construction of bus related facilities. The Section 9 program apportions funds on a formula basis to provide capital and operating assistance in urbanized areas. Section 9 grants reported may include flexible funds transferred from the Federal Highway Administration to the FTA for use in transit projects in urbanized areas. These flexible funds are authorized under the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA) to be used for highway or transit purposes. Pursuant to the statute FTA reports the following grant information.

SECTION 3 GRANTS

Transit property	Grant number	Grant amount	Obligation date
City of Tucson, Tucson, AZ	AZ-03-0017-00	3,000,000	09/30/92
Los Angeles County Transportation Commission, Los Angeles, CA	CA-03-0341-02	69,109,998	09/30/92
San Francisco Bay Area Rapid Transit District, San Francisco-Oakland, CA	CA-03-0378-00	8,031,861	09/30/92
City of Fort Collins, Fort Collins, CO	CO-03-0049-00	1,152,000	09/30/92
Greater Hartford Transit District, Hartford—Middletown, CT	CT-03-0078-00	99,360	09/30/92
Tri-county Commuter Rail Authority, West Palm Beach-Boca Raton-Delray Bch, FL	FL-03-0120-00	5,475,000	09/30/92
Metrolitan Atlanta Rapid Transit Authority, Altanta, GA	GA-03-0036-01	61,978,784	09/30/92
Iowa Department of Transportation, Iowa	IA-03-0066-00	8,514,000	09/01/92
Chicago Transit Authority, Chicago, IL—Northwestern IN	IL-03-0165-00	46,369,948	09/30/92
Northern Indiana Commuter Transportation District, Indiana	IN-03-0060-02	6,049,001	09/30/92
Massachusetts Bay Transportation Authority, Boston, MA	MA-03-0182-00	10,750,000	09/30/92
Merrimack Valley Regional Transit Authority, Lawrence—Haverhill, MA-NH	MA-03-0183-00	221,636	09/30/92
Mass Transit Administration, Baltimore, MD	MD-03-0054-00	8,735,676	09/29/92
Mass Transit Administration, Baltimore, MD	MD-03-0055-00	11,417,560	09/30/92
Mass Transit Administration, Baltimore, MD	MD-03-3003-01	500,000	09/30/92
Suburban Mobility Authority for Regional Transportation, Detroit, MI	MI-03-0124-00	8,247,312	09/30/92
Missouri Highway and Transportation Department, Missouri	MD-03-0035-00	5,117,147	09/04/92
Kansas City Area Transportation Authority, Kansas City, MO-KS	MD-03-0038-00	368,000	09/18/92
Montana Department of Transportation, Montana	MD-03-0014-00	1,055,584	09/29/92
New Jersey Transit Corporation, Northeastern NJ-New York, NY	NJ-03-0087-00	6,000,000	09/30/92
Niagara Frontier Transportation Authority, Buffalo-Niagara Falls, NY	NY-03-0277-00	2,000,000	09/30/92
New York Metropolitan Transportation Authority, New York, NY—Northeastern NJ	NY-03-0278-00	11,000,000	09/30/92
Niagara Frontier Transportation Authority, Buffalo-Niagara Falls, NY	NY-03-0279-00	214,928	09/30/92
Central Oklahoma Transportation and Parking Authority, Oklahoma, City, OK	OK-03-0007-00	600,000	09/30/92
Tri-County Metropolitan Transportation District of Oregon, Portland—Vancouver, OR—WA	OR-03-0043-00	14,305,000	09/29/92
Tri-County Metropolitan Transportation District of Oregon, Portland-Vancouver, OR-WA	OR-03-0044-00	7,408,880	09/30/92
Berks Area Reading Transportation Authority, Reading, PA	PA-03-0232-00	1,500,000	09/29/92
Berks Area Reading Transportation Authority, Reading, PA	PA-03-0232-01	5,000,000	09/30/92
Rhode Island Department of Transportation, Providence—Pawtucket, RI—MA	RI-03-0015-00	1,395,568	09/04/92
Brazos Valley Community Action Agency, Bryan-College Station, TX	TX-03-0148-00	415,364	09/25/92
Park City Municipal Corp., Park City, UT	UT-03-0017-00	1,136,800	09/30/92

SECTION 9 GRANTS

Transit property	Grant number	Grant amount	Obligation date
Tuscaloosa County Parking and Transit Authority, Tuscaloosa, AL	AL-90-X056-02	$35,000	09/30/92
City of Montgomery—Montgomery Area Transit System, Montgomery, AL	AL-90-X063-01	71,562	09/21/92
City of Gadsden, Gadsden, AL	AL-90-X066-00	65,000	09/25/92
Tuscaloosa County Parking and Transit Authority, Tuscaloosa, AL	AL-90-X067-00	299,687	09/30/92
City of Huntsville, Huntsville, AL	AL-90-X068-00	903,600	09/21/92
Alabama Highway Department, Alabama	AL-90-X069-00	917,760	09/30/92
Alabama Highway Department, Alabama	AL-90-X070-00	108,500	09/30/92
Mobile Transit Authority, Mobile, AL	AL-90-X071-00	265,200	09/21/92
City of Montgomery—Montgomery Area Transit System, Montgomery, AL	AL-90-X072-00	501,476	09/30/92
City of Tucson, Tucson, AZ	AZ-90-X032-00	600,000	09/23/92
Metropolitan Transportation Commission, San Francisco-Oakland, CA	CA-90-X321-01	140,000	09/23/92
San Francisco Bay Area Rapid Transit District, San Francisco-Oakland, CA	CA-90-X447-00	1,973,120	09/29/92
Riverside Transit Agency, Riverside-San Bernardino, CA	CA-90-X446-01	494,293	09/23/92
Santa Clara County Transit District, San Jose, CA	CA-90-X473-01	594,705	09/30/92
Hub Area Transit Authority, Yuba City, CA	CA-90-X480-01	640,000	09/23/92
Long Beach Public Transportation Company, Los Angeles, CA	CA-90-X491-01	2,311,034	09/24/92
County of Los Angeles—Department of Public Works, Los Angeles, CA	CA-90-X503-00	1,265,404	09/24/92
City of Laguna Beach, Los Angeles, CA	CA-90-X504-00	250,000	09/25/92
City of Claremont, Los Angeles, CA	CA-90-X506-00	200,000	09/23/92
City of Montebello, Los Angeles, CA	CA-90-X508-00	60,000	09/25/92
Yolo County Transit Authority, Sacramento, CA	CA-90-X509-00	301,739	09/24/92
City of Victorville, Riverside-San Bernardino, CA	CA-90-X510-00	111,000	09/25/92
Metropolitan Transit Development Board, San Diego, CA	CA-90-X512-00	9,800,000	09/30/92
Greater Bridgeport Transit District, Bridgeport-Milford, CT	CT-90-X200-00	1,380,000	09/23/92
Middletown Transit District, Hartford-Middletown, CT	CT-90-X211-00	194,544	09/30/92
Washington Metropolitan Area Transit Authority (WMATA), Washington, DC-MD-VA	DC-90-X018-00	4,600,000	09/30/92
Metropolitan Dade Transit Agency, Miami-Hialeah, FL	FL-90-X182-01	1,122,400	09/30/92
Pinellas Suncoast Transit Authority, St. Petersburg, FL	FL-90-X200-00	5,657,476	09/30/92
Lee County Transit, Fort Myers-Cape Coral, FL	FL-90-X201-00	1,992,420	09/30/92
Pasco County Board of County Commissioners, St. Petersburg, FL	FL-90-X202-00	303,028	09/21/92
Cobb County DOT, Atlanta, GA	GA-90-X065-00	1,320,000	09/30/92
Georgia Dept. of Transportation—Office of Intermodal Programs, Georgia	GA-90-X071-00	4,681,686	09/25/92
Cobb County DOT, Atlanta, GA	GA-90-X072-00	5,458,000	09/30/92
Idaho Transportation Department, Idaho Falls, ID	ID-90-X024-00	117,912	09/30/92
City of South Beloit, Beloit, WI-IL	IL-90-X192-00	60,000	09/25/92
Commuter Rail Division of the Regional Transportation Authority, Chicago, IL-Northwestern IN	IL-90-X194-01	772,460	09/30/92
City of Decatur, Decatur, IL	IL-90-X203-00	740,730	09/30/92
Commuter Rail Division of the Regional Transportation Authority, Chicago, IL-Northwestern, IN	IL-90-X205-00	3,900,000	09/30/92
Chicago Transit Authority, Chicago, IL—Northwestern, IN	IL-90-X206-00	7,000,000	09/30/92
Chicago Transit Authority, Chicago, IL—Northwestern, IN	IL-90-X207-00	14,951,170	09/30/92

SECTION 9 GRANTS—Continued

Transit property	Grant number	Grant amount	Obligation date
City of Danville, Danville, IL	IL-90-X209-00	273,000	09/30/92
Michiana Area Council of Governments, South Bend-Mishawaka, IN-MI	IN-90-X170-00	576,100	09/29/92
Wichita Metropolitan Transit Authority, Wichita, KS	KS-90-X039-02	458,278	09/30/92
Transit Authority of Lexington-Fayette Urban County Govt., Lexington-Fayette, KY	KY-90-X057-01	7,872	09/30/92
City of Alexandria, Alexandria, LA	LA-90-X134-00	616,000	09/30/92
Rapides Area Planning Commission, Alexandria, LA	LA-90-X135-00	32,000	09/30/92
City of Lake Charles, Lake Charles, LA	LA-90-X136-00	580,000	09/30/92
City of Lafayette, Lafayette, LA	LA-90-X137-00	802,040	09/30/92
Worcester Regional Transit Authority, Worcester, MA-CT	MA-90-X132-02	138,964	09/30/92
Pioneer Valley Transit Authority, Springfield, MA-CT	MA-90-X134-01	905,932	09/30/92
Massachusetts Bay Transportation Authority, Boston, MA	MA-90-X141-00	24,000,000	09/24/92
Kalamazoo Metro Transit, Kalamazoo, MI	MI-90-X157-00	994,952	09/17/92
County of Muskegon System, Muskegon, MI	MI-90-X160-01	30,486	09/28/92
City of East Grand Forks, Grand Forks, MN	MN-90-X061-00	71,746	09/30/92
City of St. Joseph, St. Joseph, MO-KS	MO-90-X084-00	422,328	9/30/92
City of Jackson—Mayor's Office of Development Assistance, Jackson, MS	MS-90-X042-00	1,658,960	09/30/92
Mississippi Coast Transportation Authority, Biloxi-Gulfport, MS	MS-90-X043-00	1,060,000	09/30/92
City of Billings, Billings, MT	MT-90-X033-00	537,730	09/25/92
Missoula Urban Transportation District, Missoula, MT	MT-90-X034-00	320,816	09/25/92
City of Greenville, Greenville, North Carolina	NC-90-X137-00	170,280	09/21/92
City of Greensboro, Greensboro, NC	NC-90-X140-01	24,800	09/25/92
City of Rocky Mount, Raleigh, NC	NC-90-X141-00	155,990	09/21/92
Town of Chapel Hill, Durham, NC	NC-90-X143-00	508,469	09/30/92
City of Wilmington, Wilmington, NC	NC-90-X144-00	457,948	09/21/92
City of Winston-Salem, Winston-Salem, NC	NC-90-X145-00	1,481,898	09/21/92
City of Gastonia, Gastonia, NC	NC-90-X146-00	311,394	09/25/92
City of Grand Forks, Grand Forks, ND	ND-90-X027-01	52,672	09/24/92
Cooperative Alliance for Seacoast Transportation, Portsmouth-Dover-Rochester, NH-ME	NH-90-X032-00	421,912	09/30/92
City of Nashua, Nashua, NH	NH-90-X033-00	741,400	09/30/92
Manchester Transit Authority, Manchester, NH	NH-90-X034-00	110,400	09/30/92
City of Albuquerque, Albuquerque, NM	NM-90-X035-00	2,567,831	09/30/92
Regional Transportation Commission of Clark County, Las Vegas, NV	NV-90-X018-00	1,842,232	09/30/92
City of Rome, V.I.P. Transportation, Utica-Rome, NY	NY-90-X234-00	165,265	09/29/92
Tompkins County, Elmira, NY	NY-90-X235-00	313,933	09/30/92
New York Metropolitan Transportation Authority, New York, NY—Northeastern NJ	NY-90-X237-00	50,000,000	09/30/92
Rockland County Department of Public Transportation, New York, NY—Northeastern NJ	NY-90-X240-00	3,301,860	09/29/92
Broome County, Binghamton, NY	NY-90-X242-00	1,010,167	09/29/92
Central Ohio Transit Authority, Columbus, OH	OH-90-X167-00	3,500,000	09/30/92
Ohio Dept. of Transportation Ohio	90-90-X168-00	5,516,392	09/30/92
Greater Cleveland Regional Transit Authority, Cleveland, OH	OH-90-X170-00	8,648,000	09/30/92
Enid Public Transportation Authority, Enid, Ok	OK-90-X041-00	347,600	09/30/92
Salem Area Mass Transit District, Salem, OR	OR-90-X027-01	56,766	09/30/92
Lehigh and Northampton Transportation Authority, Allentown-Bethlehem-Easton, PA-NJ	PA-X235-01	400,000	09/30/92
Cumberland-Daurmin-Harrisburg Transit Authority, Harrisburg, PA	PA-90-X241-00	115,960	09/30/92
Commonwealth of Puerto-Rico—Department of Transp. and Public Works, San Juan, PR	PR-90-X011-07	2,547,200	09/30/92
Municipality of Camoy, Arecibo, PR	PR-90-X064-01	1,000,000	09/30/92
Municipality of Burabo, Caguas, PR	PR-90-X065-01	281,968	09/30/92
Municipality of Canovanas, San Juan, PR	PR-90-X071-00	300,000	09/30/92
Rhode Island Department of Transportation, Providence-Pawtucket, RI-MA	RI-90-X019-00	128,128	09/30/92
Rhode Island Department of Transportation, Providence-Pawtucket, RI-MA	RI-90-X020-00	1,121,076	09/30/92
City of Spartanburg, Spartanburg, SC	SC-90-X048-00	118,826	09/30/92
City of Charleston, Charleston, SC	SC-90-X053-01	300,000	09/30/92
City of Spartanburg, Spartanburg, SC	SC-90-X054-00	921,966	09/30/92
Central Midlands Regional Planning Council, Columbia, SC	SC-90-X058-00	666,356	09/30/92
City of Kingsport, Kingsport, TN-VA	TN-90-X104-00	93,261	09/21/92
City of Grant Prairie, Dallas-Ft. Worth, TX	TX-90-X245-00	62,953	09/30/92
City of Mesquite, Dallas-Ft. Worth, TX	TX-90-X247-00	14,000	09/30/92
City of Laredo, Laredo, TX	TX-90-X249-00	1,833,600	09/30/92
City of Brownsville, Brownsville, TX	TX-90-X250-00	1,207,750	09/30/92
Texoma Council of Governments, Sherman-Denison, TX	TX-90-X251-00	448,736	09/30/92
Brazos Valley Community Action Agency, Bryan-College Station, TX	TX-90-X252-00	784,648	09/30/92
City of Sherman, Sherman-Denison, TX	TX-90-X253-00	53,908	09/30/92
City of Abilene, Abilene, TX	TX-90-X254-00	659,299	09/30/92
City of Dallas, Dallas-Ft. Worth, TX	TX-90-X255-00	100,000	09/30/92
City of Michita Falls, Wichita Falls, TX	TX-90-X256-00	659,910	09/30/92
City of Temple, Temple, TX	TX-90-X259-00	163,102	09/30/92
City of Port Arthur, Port Arthur, TX	TX-90-X261-00	845,000	09/30/92
City of Petersburg, Petersburg, VA	VA-90-X096-00	277,854	09/17/92
City of Bristol, Bristol, VA-TN	VA-90-X099-00	81,152	09/25/92
Peninsula Transportation District Commission, Norfolk-Virginia Beach-Newport News, VA	VA-90-X100-00	2,704,000	09/23/92
City of Danville, Danville, VA	VA-90-X101-00	354,798	09/17/92
Tidewater Transportation District Commission, Norfolk-Virginia Beach-Newport News, VA	VA-90-X102-00	3,440,000	09/30/92
Whatcom Transportation Authority, Bellingham, WA	WA-90-X132-00	390,000	09/30/92
City of Yakima, Yakima, WA	WA-90-X134-00	890,000	09/29/92
City of Longview, Longview, WA-OR	WA-90-X136-00	80,000	09/29/92
Pierce County Public Works Department, Tacoma, WA	WA-90-X137-00	700,000	09/29/92
City of Appleton, Appleton-Neenah, WI	WI-90-X157-01	45,875	09/25/92
Waukesha County, Milwaukee, WI	WI-90-X170-00	335,554	09/25/92
City of Beloit, Beloit, WI-IL	WI-90-X171-00	224,230	09/30/92

SECTION 9 GRANTS—Continued

Transit property	Grant number	Grant amount	Obligation date
City of Eau Claire System, Eau Claire, WI	WI-90-X172-00	338,735	09/25/92
City of Madison, Madison, WI	WI-90-X173-00	1,600,000	09/28/92
Eastern Ohio/Ohio Valley Regional Transp. Authority, Wheeling, WV-OH	WV-90-X050-00	652,908	09/30/92
City of Casper, Casper, WY	WY-90-X012-00	347,539	09/22/92

Issued on: November 13, 1992.

Brian W. Clymer,

Administrator.

[FR Doc. 92-27943 Filed 11-17-92; 8:45 am]

BILLING CODE 4910-57-M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

Dated: November 12, 1992.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96-511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 3171 Treasury Annex, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

Bureau of the Public Debt

OMB Number: New.

Form Number: PD F 1010.

Type of Review: New collection.

Title: Resolution by Governing Body of an Organization Authorizing Assignment and Disposition of Specified Securities Owned in its Own Right or in a Fiduciary Capacity.

Description: An official of an organization certifies that a designated officer(s) has the authority to sell, assign or dispose of U.S. Securities. The official further certifies that the organization is the owner or the fiduciary of the owner of the securities.

Respondents: Businesses or other for-profit, Non-profit institutions.

Estimated Number of Respondents: 25.

Estimated Burden Hours Per Response: 10 minutes.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 4 hours.

Clearance Officer: Vicki S. Ott, (304) 420-6553, Bureau of the Public Debt, 200 Third Street, Parkersburg, West VA 26106-1328.

OMB Reviewer: Milo Sunderhauf, (202) 395-6880, Office of Management and Budget, Room 3001, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports, Management Officer.

[FR Doc. 92-27928 Filed 11-17-92; 8:45 am]

BILLING CODE 4810-40-M

Public Information Collection Requirements Submitted to OMB for Review

Dated: November 12, 1992.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96-511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 3171 Treasury Annex, 1500 Pennsylvania Avenue NW., Washington, DC 20220.

Internal Revenue Service

OMB Number: 1545-1021.

Form Number: IRS Form 8594.

Type of Review: Extension.

Title: Asset Acquisition Statement.

Description: Form 8594 is used by the buyer and seller of assets to which goodwill or going concern value can attach to report the allocation of the purchase price among the transferred assets.

Respondents: Individuals or households, Farms, Businesses or other for-profit, Non-profit institutions, Small businesses or organizations.

Estimated Number of Respondents/ Recordkeepers: 20,000.

Estimated Burden Hours Per Respondent: Recordkeeping—10 Hours, 48 minutes; Learning about the law or the form—30 minutes; Preparing and sending the form to the IRS—42 minutes.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 239,000 hours.

Clearance Officer: Garrick Shear, (202) 622-3869, Internal Revenue Service, Room 5571, 1111 Constitution Avenue, N.W., Washington, DC 20224.

OMB Reviewer: Milo Sunderhauf, (202) 395-6880, Office of Management and Budget, Room 3001, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports, Management Officer.

[FR Doc. 92-27929 Filed 11-17-92; 8:45 am]

BILLING CODE 4830-01-M

[*Number: 16-53*]

Directive; Authority Under the Government Losses in Shipment Act

November 10, 1992.

Subject: Authority Under the Government Losses in Shipment Act.

1. *Delegation.* By virtue of the authority vested in the Fiscal Assistant Secretary under Treasury Order (TO) 101-05, I hereby delegate to the Commissioner of the Public Debt, the authority of the Secretary of the Treasury under the Government Losses in Shipment Act, as amended, 40 U.S.C. 721 *et seq.*

2. *Redelegation.* The authority delegated herein may be redelegated to personnel of the Bureau of the Public Debt.

3. *Cancellation.* Treasury Directive 16-53, "Authority Under the Government Losses in Shipment Act," dated September 22, 1986, is superseded.

4. *Authority.* TO 101-15, "Reporting Relationships and Supervision of Officials, Offices and Bureaus, Delegation of Certain Authority, and Order of Succession in the Department of the Treasury."

5. *Office of Primary Interest.* Office of the Fiscal Assistant Secretary.

Gerald Murphy,

Fiscal Assistant Secretary.

[FR Doc. 92-27877 Filed 11-17-92; 8:45 am]

BILLING CODE 4810-25-M

[Number: 16-55]

Directive; Furnishing Instructions to Federal Reserve Banks

November 10, 1992.

Subject: Furnishing Instructions to Federal Reserve Banks.

1. *Delegation.* By virtue of the authority vested in the Secretary of the Treasury under Section 15 of the Federal Reserve Act, as amended (12 U.S.C. 391), and pursuant to the authority delegated to the Fiscal Assistant Secretary by Treasury Order (TO) 101-05, I hereby delegate to the Commissioner of the Public Debt authority to furnish instructions to the Federal Reserve Banks, acting as fiscal agents of the United States, with respect to functions performed which relate to activities of the Bureau of the Public Debt.

2. *Redelegation.* The authority delegated to the Commissioner of the Public Debt may be redelegated to subordinate officials.

3. *Cancellation.* Treasury Directive 16-55, "Furnishing Instructions to Federal Reserve Banks," dated September 22, 1986, is superseded.

4. *Authorities.* a. TO 101-05, "Reporting Relationships and Supervision of Officials, Offices and Bureaus, Delegation of Certain Authority, and Order of Succession in the Department of the Treasury."

b. 12 U.S.C. 391.

5. *Office of Primary Interest.* Office of the Fiscal Assistant Secretary.

Gerald Murphy,

Fiscal Assistant Secretary.

[FR Doc. 92-27879 Filed 11-17-92; 8:45 am]

BILLING CODE 4810-25-M

[Number: 16-12]

Directive; Signing Regulations Governing Treasury Checks

November 10, 1992.

Subject: Signing Regulations Governing Treasury Checks

1. *Delegation.* By the authority granted to the Fiscal Assistant Secretary by Treasury Order (TO) 101-05, I hereby delegate to the Commissioner, Financial Management Service, the authority of the Secretary of the Treasury to sign regulations governing the rights and duties of the United States on checks drawn against the Treasury of the United States, and on checks drawn against depositaries of public money. The Commissioner, Financial Management Service, shall sign any such regulations under this authority in that official's capacity and under that official's title and shall be responsible for referring to the Fiscal Assistant Secretary any matter on which action shall appropriately be taken by the Fiscal Assistant Secretary. To the extent necessary, I hereby ratify and confirm any actions taken by the Commissioner, Financial Management Service, in exercise of the authorities delegated herein.

2. *Redelegation.* The authority delegated to the Commissioner, Financial Management Service, may be redelegated to subordinate personnel.

3. *Cancellation.* Treasury Directive 16-12, "Signing Regulations Governing Treasury Checks," dated September 22, 1986, is superseded.

4. *Authority.* TO 101-05, "Reporting Relationships and Supervision of Officials, Offices and Bureaus, Delegation of Certain Authority, and Order of Succession in the Department of the Treasury."

5. *Office of Primary Interest.* Office of the Fiscal Assistant Secretary.

Gerald Murphy,

Fiscal Assistant Secretary.

[FR Doc. 92-27876 Filed 11-17-92; 8:45 am]

BILLING CODE 4810-25-M

[Number: 16-31]

Directive; Collection and Deposit Activities of Federal Agencies

November 10, 1992.

Subject: Collection and Deposit Activities of Federal Agencies.

1. *Delegation.* By virtue of the authority granted to the Fiscal Assistant Secretary by Treasury Order (TO) 101-05, the Commissioner, Financial Management Service, is delegated the authority to perform any duty or function of the Secretary prescribed or required pursuit to 31 U.S.C. 3301, 3302, and 3720.

2. *Redelegation.* The Commissioner, Financial Management Service, may redelegate this authority, and it may be exercised in the individual capacity and under the individual title of each official receiving such authority.

3. *Cancellation.* Treasury Directive 16-31, "Collection and Deposit Activities of Federal Agencies," dated September 22, 1986, is superseded.

4. *Authority.* TO 101-05, "Reporting Relationships and Supervision of Officials, Offices and Bureaus, Delegation of Certain Authority, and Order of Succession in the Department of the Treasury."

5. *Office of Primary Interest.* Office of the Fiscal Assistant Secretary.

Gerald Murphy,

Fiscal Assistant Secretary.

[FR Doc. 92-27878 Filed 11-17-92; 8:45 am]

BILLING CODE 4810-25-M

UNITED STATES INFORMATION AGENCY

Reporting and Information Collection Requirements Under OMB Review

AGENCY: United States Information Agency.

ACTION: Notice of reporting requirements submitted for OMB review.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35), agencies are required to submit proposed or established reporting and recordkeeping requirements to OMB for review and approval, and to publish a notice in the **Federal Register** notifying the public that the Agency has made such a submission. The information collection activity involved with this program is conducted pursuant to the mandate given to the United States Information Agency under the terms and conditions of Mutual Educational and Cultural Exchange Act of 1961, Public Law 87-256. USIA is requesting approval for a proposed information collection entitled "Survey of University Affiliations Program Grants." Estimated burden hours per response is fifteen minutes. Respondents will be required to respond only one time.

DATES: Comments are due on or before December 18, 1992.

COPIES: Copies of the Request for Clearance (SF-83), supporting statement, transmittal letter and other documents submitted to OMB for approval may be obtained from the USIA Clearance Officer. Comments on the items listed should be submitted to the Office of Information and Regulatory Affairs of OMB, Attention: Desk Office for USIA, and also to the USIA Clearance Officer.

FOR FURTHER INFORMATION CONTACT: Agency Clearance Officer, Ms. Debbie Knox, United States Information Agency, M/ADD, 301 Fourth Street, SW., Washington, DC 20547, telephone (202) 619-5503; and OMB review: Ms. Lin Liu, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503, Telephone (202) 395-7340.

SUPPLEMENTARY INFORMATION: Public reporting burden for this collection of information is estimated to average fifteen minutes per response, 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 this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the United States Information Agency, M/ADD, 301 Fourth Street, SW., Washington, DC 20547; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

Title: Survey of University Affiliations Program Grants.

Form Number: None.

Abstract: Under the University Affiliations Program, USIA offers grants-in-aid to support the development or enhancement of institutional partnerships between U.S. and foreign colleges and universities. The purpose of this survey is to evaluate the effectiveness of this program and elicit suggestions to strengthen it if it is determined to be a worthwhile part of USIA educational exchange program.

Proposed Frequency of Responses: No of Respondents—500; Recordkeeping Hours—10; Total Annual Burden—135.

Dated: November 12, 1992.

Rose Royal,

Federal Register Liaison.

[FR Doc. 92-27942 Filed 11-17-92; 8:45 am]

BILLING CODE 8230-01-M

Sunshine Act Meetings

Federal Register
Vol. 57, No. 223
Wednesday, November 18, 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).

NATIONAL CREDIT UNION ADMINISTRATION

Notice of Meeting

TIME AND DATE: 1:30 p.m., Monday, November 23, 1992.

PLACE: Filene Board Room, 7th Floor, 1776 G Street, NW., Washington, DC 20456.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Approval of Minutes of Previous Closed Meetings.
2. Administrative Actions under Section 206 of the Federal Credit Union Act. Closed pursuant to exemptions (8), (9)(A)(ii), and (9)(B).
3. Requests from Credit Unions for a Determination under Part 704 of NCUA's Rules and Regulations. Closed pursuant to exemption (8).
4. Personnel Actions. Closed pursuant to exemption (2).

FOR MORE INFORMATION CONTACT: Becky Baker, Secretary of the Board, Telephone (202) 682–9600.

Hattie M. Ulan,

Acting Secretary of the Board.

[FR Doc. 92–28187 Filed 11–16–92; 3:35 pm]

BILLING CODE 7535–01–M

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 10:00 a.m., Tuesday, November 24, 1992.

PLACE: 2033 K St., N.W., Washington, D.C., Lower Lobby Hearing Room.

STATUS: Open.

MATTERS TO BE CONSIDERED: Proposed Part 156-Registration of Broker Associations.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 202–254–6314.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 92–28188 Filed 11–16–92; 3:48 pm]

BILLING CODE 6351–01–M

SECURITIES AND EXCHANGE COMMISSION

Agency Meeting

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: [To Be Published.]

STATUS: Open meeting.

PLACE: 450 Fifth Street, N.W., Washington, D.C.

DATE PREVIOUSLY ANNOUNCED: THURSDAY, NOVEMBER 12, 1992.

CHANGE IN THE MEETING: Additional item.

The following item will be considered at an open meeting scheduled for Thursday, November 19, 1992, at 10:00 a.m.

Consideration of whether to adopt rule 3a–7 under the Investment Company Act of 1940 ("Act"). Rule 3a–7 conditionally excludes certain issuers that pool income-producing assets and issue securities backed by those assets from the definition of investment company under the Act. For further information, please contact Rochelle G. Kauffman or Elizabeth R. Krentzman, at (202) 272–2048.

Commissioner Schapiro, as duty officer, determined that Commission business required the above change and that no earlier notice thereof was possible.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Steve Luparello at (202) 272–2100.

Dated: November 16, 1992.

Jonathan G. Katz,

Secretary.

[FR Doc. 92–28126 Filed 11–16–92; 1:06 pm]

BILLING CODE 8010–01–M

Federal Register

Wednesday
November 18, 1992

Part II

Environmental Protection Agency

40 CFR Parts 260 et al.

Hazardous Waste Management; Liquids in Landfills; Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 260, 264, 265, and 271

[FRL-4506-3]

RIN 2050-AA34

Hazardous Waste Management; Liquids in Landfills

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: Under authority of the Resource Conservation and Recovery Act (RCRA) as amended by the Hazardous and Solid Waste Amendments of 1984 (HSWA), EPA is promulgating this final rule regarding the landfill disposal of containerized liquids mixed with sorbents. This rule satisfies the statutory requirement that EPA issue a rule that prohibits the disposals in hazardous waste landfills of liquids that have been sorbed in materials that biodegrade or that release liquids when compressed as might occur during routine landfill operations. This rule will help assure the stability of materials in hazardous waste landfills.

EFFECTIVE DATE: May 18, 1993.

ADDRESSES: The public docket for this final rule is docket reference code F-92-CLIF-FFFFF, and the public dockets for the four proposals and supplemental notices are docket reference codes F-86-CLIP-FFFFF, F-87-CLLN-FFFFF, F-91-CLLA-FFFFF, and F-92-CCLA-FFFFF. These dockets are in room M2427, U.S. EPA, 401 M St. SW, Washington, DC 20460, and are open from 9 am to 4 pm, Monday through Friday, excluding holidays. Call 202-260-9327 for an appointment to review docket materials. Up to 100 pages may be copied free of charge from any one regulatory docket. Additional copies are $0.15 per page.

FOR FURTHER INFORMATION CONTACT: The RCRA/Superfund Hotline at 1-800-424-9346 (toll free), or 703-920-9810 in the Washington, DC area. For information on technical aspects of this rule, contact Ken Shuster, Office of Solid Waste (OS-340), U.S. EPA, 401 M St. SW, Washington, DC 20460, 202-260-2214.

SUPPLEMENTARY INFORMATION:

Preamble Outline

I. Authority
II. Background
  A. Regulatory Background
  B. Role of Sorbents in Liquid Hazardous Waste Disposal
III. Summary of Today's Rule
IV. Detailed Discussion of the Final Rule
  A. Definition of "Sorbents"
  B. Paint Filter Liquids Test (PFT) versus Liquids Release Test (LRT)
  C. Biodegradability
  D. Spill Cleanups
  E. Sorbent Pillows
  F. Lab Pack and Other Exemptions
  G. Waste Analysis and Recordkeeping
  H. Free-Standing Liquids
  I. Implementation
V. State Authority
  A. Applicability of Rule in Authorized States
  B. Effect on State Authorizations
VI. Regulatory Requirements
  A. Economic Impact Analysis
  B. Regulatory Flexibility Act
  C. Paperwork Reduction Act
VII. Supporting Documents

I. Authority

These rules are being issued under authority of section 3004(c) of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 and the Hazardous and Solid Waste Amendments of 1984; 42 U.S.C. 6924(c).

II. Background

A. Regulatory Background

Section 3004(c)(2) of HSWA requires EPA to issue final rules, by February 8, 1986, that "minimize the disposal of containerized liquid hazardous waste in landfills," that "minimize the presence of free liquids in containerized hazardous waste to be disposed of in landfills," and that "prohibit the disposal in landfills of liquids that have been absorbed in materials that biodegrade or that release liquids when compressed as might occur during routine landfill operations."

On April 30, 1985 (50 FR 18370) EPA issued a final rule requiring the use of the Paint Filter Liquids Test (PFT), Method 9095, to determine the presence of free liquids in either bulk or containerized waste. Wastes that fail the PFT—i.e., that contain free liquids—cannot be disposed of in landfills. This satisfied the requirement that EPA issue regulations minimizing the disposal of containerized liquid hazardous waste in landfills and minimizing the presence of free liquids in containerized hazardous waste to be disposed of in landfills.[1]

[1] Section 3004(c)(1) of HSWA prohibits the placement of bulk or noncontainerized liquid hazardous waste in landfills, and section 3004(c)(3) prohibits the placement of liquids which are not hazardous wastes in Subtitle C landfills unless certain demonstrations are made. The PFT is required to determine the presence of liquids or free liquids to comply with these prohibitions, 40 CFR 264.314(c) and 40 CFR 265.314(d).

On December 24, 1986 (51 FR 46824) EPA proposed a rule that would prohibit disposal of containerized liquids treated with sorbents that had more than one percent total organic carbon or TOC (as a measure of biodegradability). In the preamble, EPA recommended that the modified Mebius procedure (Page, A.L., ed., 1982, Methods of Soil Analysis) be used to determine the organic carbon content. EPA also proposed a Liquids Release Test (LRT), a confined compression type test, to simulate the release of liquids from sorbed wastes when compressed during landfill operations. The test relied on a device known as the Zero-Headspace Extractor (ZHE), which was developed in conjunction with the new Toxicity Characteristic Leaching Procedure (TCLP). Containerized sorbed wastes that failed these tests could not be disposed of in landfills. The proposal was intended to satisfy the section 3004(c)(2) requirement that EPA "prohibit the disposal in landfills of liquids that have been absorbed in materials that biodegrade or that release liquids when compressed as might occur during routine landfill operations."

On June 24, 1987 (52 FR 23695) EPA issued a supplemental proposal regarding the definition of biodegradable in response to comments received on the one percent TOC requirement and on the recommended modified Mebius procedure. In this notice, EPA recommended two additional tests to determine biodegradability: ASTM Method G21-70 (1984a)—Standard Practice for Determining Resistance of Synthetic Polymer Materials to Fungi, and ASTM Method G22-76 (1984b)—Standard Practice for Determining Resistance of Plastics to Bacteria. The Agency also proposed to regulate sorbent pillows in a manner similar to lab packs.

On October 29, 1991 (56 FR 55646) EPA issued another supplemental notice, seeking comments on single and multi-laboratory test results on a revised Liquids Release Test device (also a confined compression type test). Finally, in response to further comments, EPA on May 1, 1992 (57 FR 18853) issued a notice of supplemental information seeking comment on use of the PFT versus the LRT for containerized sorbents.

In today's rule, EPA is taking final action on these proposals and notices of additional information, and is completing EPA's regulatory responsibilities under RCRA section 3004(c)(2).

B. Role of Sorbents in Liquid Hazardous Waste Disposal

Dozens of sorbents are on the market today. These sorbents are used to sorb free liquids in wastes before land disposal, thereby reducing the amount of leachate likely to be generated after disposal, or to sorb free liquids from a spill before they migrate. Some sorbents are by-products of other production processes which are typically discarded, such as fly ash from coal-burning, cement kiln dust from cement production, shredded and ground rubber from tires, shredded paper and sawdust, and corn cobs, peanut shells, and rice hulls from crop harvesting. They tend to be relatively cheap and are often readily available. Other sorbents are derived from mined natural minerals, such as bentonite or montmorillonite clays, diatomaceous earth, volcanic ash, lime and limestone, silicates, and vermiculite. Other common sorbents are synthetic organic polymers such as polyethylene, polypropylene, polyurethane, and polystyrene. Many commercial sorbents are mixtures of sorbent materials. Often these materials, especially the natural minerals, are treated by heat, grinding, sifting, or use of additives to enhance their sorptive capacities.

Sorption can be viewed in two ways: First, as the soaking up of liquid or fluid material so that the material no longer flows, and second, as the rendering of hazardous constituents immobile or less mobile, via attenuation, chemical reactions or fixation, ion exchange, precipitation, neutralization, or encapsulation (also referred to as chemisorption). Some sorbents act in both ways to one degree or another. The focus of today's rule is on the first view of sorbents. Even so, the ultimate selection of a sorbent is usually based on both aspects, as well as on a number of other factors discussed below.

Two very important, interrelated considerations in the selection of a sorbent are: (1) Stability (in terms of both maintaining liquids in an immobile matrix and immobilizing hazardous constituents), and (2) ultimate use or disposal of the sorbed material. If the sorbed material is to be disposed of in a landfill, the first consideration, long-term stability, is of paramount importance. Thus, nonbiodegradable sorbents able to hold up under pressure are desirable. If the sorbed material is to go to an incinerator, then such factors as energy content (Btu's), heavy metal content, and products of combustion are important; long-term stability is not. Thus, for incineration, organic sorbents, whether biodegradable or not, are generally desirable, depending on potential by-products of combustion (e.g., polyvinyl chloride which produces HCl upon incineration or materials with heavy metals may be less desirable despite their Btu content, but peanut shells, shredded paper, or corn cobs may be desirable). Or, if the sorbed material is to go to a recycling facility (where it will be squeezed out and the oil, gasoline, solvent, or other material recovered), then squeezeability/releasability, without the sorbent breaking down, is desirable.

Some sorbents are more effective, i.e., have greater capacity and retention efficiencies and are faster, than others in soaking up liquids (some soak up considerably larger amounts of liquids per volume or weight of sorbent; some are structurally more stable and retain more liquids under pressure; and some actually react chemically with liquids, sometimes irreversibly, to form a nonliquid mass that further ensures stabilization). The effectiveness of a given sorbent often depends on the properties of the liquid to be sorbed. This liquid is referred to as the sorbate. Some sorbents are considerably more effective with some sorbates than with others. For example, sorbents that are both hydrophobic and less dense than water can be very effective in sorbing oils on water (oil spills) where they can be readily skimmed off the surface, whereas other sorbents would soak up more water and less oil, and would sink where they are not readily recoverable. Some sorbents substantially raise the flash points of solvents, decreasing flammability concerns. Some sorbents are ineffective because they are broken down or dissolved by certain sorbates (e.g., hydrofluoric acid breaks down silicates or glass). That is, chemical degradation of the sorbent can occur as well as biodegradation. Sorbent/sorbate properties that affect sorbency include: pH, porosity, surface area, potential capillarity and surface tension or affinity for a sorbate, polarity, and viscosity. Thus, there are technical factors affecting sorbent selection as well as economic and other practical factors, such as availability (especially timeliness in the case of a spill or emergency), cost, sorbent capacity (sorbate to sorbent ratio or percent, by volume and by weight, which affects total volume and weight and therefore cost to transport and use or dispose), and distance to site of use or disposal.

EPA considered these factors in developing today's rule, which is designed to facilitate technological advances and to allow flexibility for the treaters of liquids to select the most effective and practical solutions. The rule sets minimum standards regarding biodegradation and release of liquids that containerized wastes mixed with sorbents must meet before they can be landfilled. EPA did not attempt to evaluate the effectiveness of various sorbents beyond these minimums, nor did EPA attempt to identify efficient sorbate/sorbent combinations. Instead, today's rule allows the selection of the most effective sorbent for a specific situation, as long as it meets the rule's minimum standards.

III. Summary of Today's Rule

Today's rule adopts the Paint Filter Liquids Test, Method 9095, for the testing of containerized liquids to which sorbents have been added before land disposal; lists classes of nonbiodegradable sorbents, and gives examples in each class; and identifies two tests, either of which may be used to determine the nonbiodegradability of sorbents not within a class on the list. It also requires the use of nonbiodegradable sorbents in lab packs.

IV. Detailed Discussion of the Final Rule

A. Definition of "Sorbents"

In RCRA section 3004(c)(2), Congress requires EPA to establish special standards for "liquids that have been *absorbed* in materials that biodegrade or that release liquids * * *" (emphasis added). Several commenters on EPA's proposals stated that Congress misused the term *ab*sorbed, and should have used the term *ad*sorbed, or perhaps both terms. "Adsorbents" are materials that retain liquids on the surface of their particles by capillary action and surface tension. "Absorbents" retain liquids within the void spaces between particles and within the inner structure of the sorbing material. Discussion of the issue in the legislative history of HSWA clearly indicates that Congress meant *ad*sorbents, as defined above, as well as *ab*sorbents. To reflect this clear Congressional intent, EPA uses the terms "sorbent" and "sorb" in today's rule, instead of the terms "absorbent" and "absorb." These terms are defined in § 260.10. "Sorbent" means a material that is used to soak up free liquids by either adsorption, or both. "Sorb" means to either adsorb or absorb, or both.

B. Paint Filter Liquids Test (PFT) Versus Liquids Release Test (LRT)

In its December 24, 1986, October 29, 1991, and May 1, 1992 **Federal Register** notices, EPA proposed and solicited comment on a Liquids Release Test (LRT) specifically designed to simulate the behavior or sorbed materials under compression that might occur during

routine landfill operations. In December 1986, EPA proposed use of the Zero Head-Space Extractor (ZHE) device, which EPA was developing in conjunction with the new Toxicity Characteristic Leaching Procedure (TCLP). Because of technical concerns raised by commenters on the ZHE, EPA subsequently developed and tested a different compression type device. In the October 1991 proposal, EPA published the results of single and multi-laboratory tests using the new LRT device at 50 psi to simulate worst-case landfill pressures. The 50 psi was based on a 100 ft landfill depth and an overlying material bulk density of 70 lbs/cu ft. A survey conducted by EPA before the December 1986 proposal showed that most landfill depths were less than 60 ft, and the maximum depth was 100 ft.

Commenters continued to raise concerns about the practicality of the revised LRT noticed in October 1991, about perceived technical flaws with the test, and about the test's performance relative to the Painter Filter Liquids Test (PFT). In response, EPA published a supplemental notice in May 1992 soliciting comment on whether the PFT should be used in lieu of the LRT to satisfy the statutory requirements of section 3004(c)(2).

The overwhelming majority of commenters on EPA's May 1, 1992 notice as well as on earlier notices supported use of the PFT over the LRT for all landfilled hazardous wastes, including containerized sorbed liquid wastes. The major reasons commenters gave for preferring the PFT were:

(1) Although the PFT does not involve compression of the sorbed waste, it nonetheless reasonably simulates whether liquids will be released under pressure. In fact, EPA's test data show that in the case of sorbed water-based wastes the PFT gave results that were more conservative than the LRT "pressure" test (i.e., samples failed the PFT at lower moisture contents than in samples that failed the LRT at 50 psi).

(2) The LRT does not work well for testing samples sorbed with Imbiber Beads ® and similar sorbents. Such materials, which are compressible and elastic, tend to be extruded through the small openings in the LRT device, indicating failure. Such extrusions, however, are not releases of liquids and should not be so interpreted. This "false positive" problem does not exist with the PFT.

(3) The PFT has been required and used since June 1985, whereas commenters raised a number of technical questions with the LRT (e.g., reproducibility, sample size, sample preparation and placement, pressure amount, pressure application rate, test duration, temperature, and lack of test data on a number of sorbent/sorbate combinations).

(4) The PFT is a simpler test, more easily conducted, and simpler to clean up after (the LRT device is especially difficult and time consuming to clean after testing materials like Imbiber Beads ®, whereas the PFT device is not); it involves a significantly cheaper testing process (equipment and labor); its use eliminates the need for facilities to stock two types of test apparatus for similar purposes and to train personnel in the use of the LRT; and its use avoids potentially significant delays in safe disposal of wastes, since the PFT set-up, test, and clean-up time (10–15 minutes/sample) is significantly less than the LRT (25–75 minutes/sample).

(5) Use of the PFT for containerized sorbed waste would result in consistent environmental performance testing of all materials going into a landfill (whether containerized or not, whether treated with sorbents or not) in terms of the potential for releasing liquids.

(6) The major source of liquids in landfills is precipitation; relative to this, the environmental significance of any difference between the PFT and the LRT is very small (even without consideration of the additional protection afforded by the land disposal restrictions and double liners/leachate collection requirements for landfills).

Except for the technical questions raised in point (3) above, EPA agrees with these comments, concluding that the PFT is generally a more appropriate test than the LRT for the statutory purpose. By comparing the LRT test results to the PFT test results, EPA has been able to use the LRT to show that the PFT reasonably simulates and serves as a surrogate for a 50 psi pressure test for water-based wastes. Therefore, the additional cost, difficulty, and time for the LRT are unjustified.

At the same time, EPA disagrees that the LRT reproducibility/technical issues raised by the commenters (see 3 above) pose major problems, since sufficient test data exist either to justify the current specification or a modified specification. Further, in developing test methods, EPA need not test every possible matrix at every concentration/saturation level to demonstrate that the method is reproducible and valid. For the LRT, developmental and validation tests were performed on a set of sorbent/sorbate combinations spanning the array of materials expected to be subject to the test method. This is consistent with the approach EPA has taken in developing and validating other RCRA hazardous waste test methods.

The only concern with the PFT is its performance where oily-based wastes are the sorbates. Test data on oily-based sorbates show that the LRT is more conservative than the PFT for this category. EPA, however, notes that this issue is not particular to sorbed wastes. For all oily wastes—not merely sorbed oily wastes—there are wastes that may flow as a liquid but that do not filter within the 5 minute test and, therefore, are not defined as "liquids" under the PFT. Thus, this issue is beyond the scope of today's rulemaking. EPA recognizes that testing procedures for oily waste that can flow in the environment, whether sorbents have been added or not, may need to be improved. EPA is now studying this issue and is considering possible revisions of test procedures, which may be as simple as extending the duration of the PFT and/or using a pressure plate in the PFT for oily wastes. At the same time, EPA recognizes that such improvements may be unnecessary or of low priority, given that land disposal of oily hazardous wastes is or will soon be strictly controlled by the land disposal restrictions.

For these reasons, EPA is today retaining the PFT, or Method 9095, as the test to be used to determine if liquids will be released from containerized sorbed wastes. This will simplify the proposed testing requirements since the PFT is already required for all treated and nontreated, sorbed and nonsorbed, containerized and bulk wastes. That is, no wastes disposed in hazardous waste landfills can contain free liquids, as determined by the PFT. This approach provides equal treatment for all landfilled wastes. Also, by adopting the PFT instead of the LRT, the Agency does not have to address the special situation of various sorbent materials that cause problems in the LRT device (e.g., Imbiber Beads®). Since the PFT is already required, no changes to the existing regulations are needed for this requirement.

Chemical Fixation/Stabilization. Several commenters argued that chemically stabilized wastes should be exempted from the LRT, primarily because the device either is ruined or does not work well with these materials. Commenters also argued that chemically fixed wastes should not be classified as sorbed wastes, even though some sorption might take place. Since EPA is not adopting the LRT, this issue is moot.

C. Biodegradability

Many commenters discussed EPA's proposals regarding how to define biodegradable sorbents, and suggested

that EPA provide a combination of (1) lists or categories of acceptable and unacceptable sorbents, (2) tests that can be used to determine biodegradability, and (3) other criteria (e.g., environmental stability data). Commenters argued that a combination of options is needed because no one test or definition would be universally applicable (e.g., for inorganic materials with no carbon, the ASTM tests are not necessary), and a list alone would not be all inclusive. Commenters in particular discussed what tests and/or criteria EPA should establish, which sorbents EPA should list, when and by whom the different tests should be performed, and the number of tests that would be necessary.

"Biodegradation" is the process by which bacteria and fungi (microorganisms) consume (metabolize or decompose) an organic material. Generally, materials that do not contain carbon, and inorganic materials that contain carbon, such as calcium carbonate ($CaCO_3$), are considered to be nonbiodegradable for the purposes of this rule. Commenters pointed out that biodegradation potential exists where a material contains organic carbon, but not all organic carbon is readily available to microorganisms. In fact, very little biodegradation, if any, occurs over periods of many years with some materials containing organic carbon. For example, commenters presented information demonstrating that high-molecular weight synthetic organic polymers such as high density polyethylene and polypropylene are nonbiodegradable. In addition, as EPA noted in its June 24, 1987 proposal, several laboratory tests have been used successfully to determine whether a material is biodegradable.

In response to public comments, today's rule allows two options, in §§ 264.314(e) and 265.314(f), for defining nonbiodegradability. The rule (1) provides descriptions of classes of sorbent materials, and lists of sorbent materials as examples in each class, that are nonbiodegradable and therefore acceptable without further testing; and (2) provides two tests for sorbents not listed or not falling within one of the classes listed. A sorbent that passes either of these tests is nonbiodegradable and is therefore acceptable for landfill disposal in containers (providing, of course, that the sorbed waste passes the PFT).

Lists of Nonbiodegradable Material. In the first option, EPA has listed three classes of nonbiodegradable sorbent materials.

The first class consists of three types of materials: (1) Naturally occurring inorganic minerals (e.g., clay, diatomaceous earth), (2) man-made inorganic materials, which are often modified natural minerals (e.g., calcined montmorillonite, cement kiln dust, fly ash), and (3) elemental carbon (e.g., activated charcoal).

The second class comprises high molecular-weight synthetic organic polymers (e.g., high density polyethylene).

The third class is made up of mixtures of the nonbiodegradable sorbent materials within the first or second classes.

EPA has concluded that these materials are nonbiodegradable because (1) the inorganic minerals and other inorganic materials do not contain carbon, they contain only inorganic or elemental carbon, or they contain insignificant amounts of organic carbon, and (2) the high-molecular weight synthetic organic materials (i.e., polymers) have proved to be highly resistant to biodegradation.

EPA received numerous comments that synthetic polymeric materials, or specific polymers, should be excluded from the definition of biodegradable. While sorbents derived from natural polymeric materials such as cellulose and starch are generally readily biodegradable, by comparison, high molecular weight synthetic organic polymers generally resist biodegradation. Biodegradability of synthetic polymers decreases as molecular weight increases. This is partly because the long chains of high molecular weight synthetic polymers tend to provide relatively few places for degradation to occur since microorganisms are generally only able to effectively attack at the ends of the chains. That is, the microbial enzymes are unable to break the backbone linkage of the long polymer chains into smaller molecules, attacking, instead, only the terminal ends and any amorphous parts of the polymer chains. Other characteristics of synthetic polymers thought to contribute to their resistance to biodegradation include: Many are hydrophobic or water repellant (microorganisms need water); they resist enzymatic attack because of their density, orientation, degree of crystallization, and bonding characteristics; and some contain antioxidants or biocidal additives. Whatever the mechanisms, test data and environmental experience show these synthetic polymers to be resistant to biodegradation. Even where there is evidence that plasticizers and other additives to polymer products are degraded, the synthetic polymeric materials themselves generally are not degraded. EPA is aware of research efforts to develop biodegradable polymers and to enhance biodegradation of synthetic polymers. In most cases, this effort has been based on biopolymers, or materials of biological origin, e.g., cellophane. These materials are explicitly excluded from the definition of nonbiodegradable in today's rule. Also included in the final rule is a restriction that the synthetic polymers not be specifically designed to biodegrade, since plastics can be designed to be relatively biodegradable by adding prooxidants, biodegradable additives (e.g., starch), and other additives that help initiate chemical degradation which make the polymers more susceptible to biological attack.

EPA has also included in today's rule the stipulation that only "high molecular weight" polymers be classified automatically as nonbiodegradable. Low molecular weight polymers—e.g., with average molecular weights of less than a few thousand—may in certain circumstances be biodegradable. While such materials are generally not suitable as sorbents because of their physical properties, EPA nonetheless believes that they should be excluded from the classification in today's rule. At the same time, EPA does not believe it is necessary or appropriate to draw a specific line defining "high" molecular weight. Effective polymeric sorbents currently in use today generally have molecular weights in the 10's or 100's of thousands, or even in the millions. These are clearly high molecular weights. Below these levels, as polymers approach the low 1000's in molecular weight, professional judgment must come into play in assessing a substance's degradability.

For each category of acceptable sorbents, EPA has listed specific examples in the rule. The materials listed as examples in the rule are not intended to be all-inclusive, but merely to exemplify and help clarify the classes of acceptable sorbents. EPA recognizes that some of the examples are generic (e.g., clays, smectites) that include a number of materials, some of which are also listed separately; that some of the terms are to a certain extent redundant or overlapping; and that some are very specific chemicals. The materials cited are types of nonbiodegradable materials most commonly used as sorbents and most frequently referred to in the public comments and literature. This use of lists, the examples listed, and the classes described, are consistent with the legislative history, which states: "Examples of absorbents that are likely to be found to be acceptable (for both

nonbiodegradation and pressure stability reasons) are the chemical reagents discussed above (cement- or lime-based materials, pozzolanic materials, and thermoplastic or organic binders) and fine-grained earthen materials (e.g., bentonite, montmorillionite (sic), kaolinite, and Fuller's earth)" (July 25, 1984, *Congressional Record—Senate,* S9177).

EPA has not attempted to define or list biodegradable, or unacceptable, sorbent materials in the rule. Since the Agency has defined nonbiodegradable material, it believes that defining biodegradable materials would be redundant. However, EPA notes that certain materials are well known to be biodegradable and would not be acceptable under today's rule. For example, cellulosic or biosynthesized materials are clearly biodegradable (e.g., sawdust, wood fiber or pulp, shredded paper, straw, ground corncobs, ground peanut hulls, municipal waste). These materials do not fall into any of the acceptable categories of sorbents, and they would clearly fail any test of nonbiodegradability. Consequently, they may not be used to sorb liquids in wastes which are subsequently disposed of in a landfill (except as noted below). This is consistent with the legislative history of section 3004(c), which listed sawdust, municipal waste, and shredded paper as examples of biodegradable sorbents, and therefore unacceptable (ibid). These biodegradable sorbents may, however, be used to sorb liquids in wastes which are then treated in accordance with RCRA treatment standards. In this case, the residual may be landfilled, provided it meets all applicable requirements, e.g., it is no longer a liquid. For example, wastes mixed with biodegradable sorbents may be incinerated and then the residual or ash, which is no longer liquid, no longer sorbed waste, and no longer biodegradable, may be landfilled.

EPA recognizes that some inorganic materials or elemental carbon could contain some level of organic carbon. EPA does not intend that these materials necessarily be classified as biodegradable or necessarily be required to be tested for biodegradability. At the same time, EPA wants to make it clear that inorganic materials are considered to be biodegradable if they have been mixed with significant amounts of biodegradable materials (e.g., with sawdust or ground corncobs), or if they are significantly "contaminated" with organic soils or materials.

In today's rule, EPA has not attempted specifically to define the degree of "contamination" or mixing that would render an inorganic, carbon, or synthetic organic polymeric material ineligible. Commenters, however, provided a significant amount of information on total organic carbon content of materials generally recognized as nonbiodegradable. For example, rice hull ash generally contains 2–6% total organic carbon; fly ash suitable as a sorbent or stabilizer may contain 2–8%. EPA, therefore, concludes that sorbents otherwise meeting the criteria of today's rule should not be excluded or require testing because of organic carbon content within these ranges. For mixtures above these ranges (i.e., above 8%), the mixture sorbent would have to be tested or demonstrated that it is nonbiodegradable.

Tests of Biodegradable Material. In the second option, if a sorbent is not in a class listed in the regulations, then a test must be conducted or a demonstration made. The tests/demonstrations are: (1) The sorbent material is shown to be nonbiodegradable using ASTM Method G21–70 (1984a)—Standard Practice for Determining Resistance of Synthetic Polymer Materials to Fungi; or (2) the sorbent material is shown to be nonbiodegradable using ASTM Method G22–76 (1984b)—Standard Practice for Determining Resistance of Plastics to Bacteria.

The ASTM tests, identified in EPA's June 24, 1987 proposal, are already required by the U.S. Nuclear Regulatory Commission for radioactive wastes to prove their resistance to biodegradation. The ASTM tests are 21-day tests, using specific bacteria and fungi cultures. After the 21-day incubation period, the test material is inspected for growth, which is evidence of biological activity and an indication of biodegradation. Although commenters supported use of these tests, at least one commenter warned of the possibility of false positives (i.e., a nonbiodegradable material might show up in the test as biodegradation). EPA agrees that this is possible. In these cases, the additional ASTM chemical, electrical, and physical tests regarding structural changes listed in the bacterial and fungal test methods can be used to determine whether there is indeed biodegradation or not; or the tests can be rerun.

In the December 24, 1986 notice, EPA proposed to define biodegradability on the basis of total organic carbon content, and the Agency suggested that use of the modified Mebius procedure to determine that content (Page, A.L., ed., 1982, Methods of Soil Analysis, Part 2, Chemical and Microbial Properties, Second Edition, No. 9, Part 2, American Society of Agronomy, Inc. Madison). Commenters were generally opposed to this approach, in part because EPA's proposed TOC level (1%) would eliminate many high-performing sorbents (e.g., pozzolanic materials and synthetic polymers), and in part because of technical issues related to the appropriateness of the test (e.g., it does not distinguish between elemental carbon and organic carbon). Therefore, EPA has not included in today's rule a TOC criterion. Nevertheless, EPA notes that the modified Mebius test might be used to demonstrate that a material fits on the list as an inorganic with less than 8% TOC i.e., that it is acceptable as a sorbent under §§ 264.314(e)(1)(i) and 265.314(f)(1)(i).

Alternative Demonstrations/Tests of Biodegradability. A number of commenters encouraged EPA to accept alternative tests, or engineering judgment in addition to the identified tests. EPA agrees that other tests exist, but has decided to limit the final rule to those tests EPA proposed since specific alternatives were not discussed. Also, some flexibility for engineering judgment has been provided in the lists and descriptions in §§ 264.314(e)(1) and 265.314(f)(1). Therefore, EPA has not gathered and reviewed data on other tests and proposed them for inclusion in today's rule. Instead, EPA decided to require that such demonstrations be made under the already established Part 260 petition process.

D. Spill Cleanups

Numerous commenters recommended that EPA exempt (from the biodegradability and liquids release requirements in the proposed rule) sorbents used in emergency spill cleanups. One commenter, however, suggested exempting only sorbents used for true emergency spills, as contrasted to routine spills at locations where sorbents are (or should be) routinely stockpiled. The basis of this commenter's suggestions was that sorbents that meet the proposed LRT and nonbiodegration criteria are readily available on this market and therefore should be used where a spill can be expected. The commenter, however, also suggested exempting from the LRT the hydrophobic sorbents that are used to clean up oil spills on water, because sorbents currently available for oil spills on water do not meet the proposed criteria.

In today's rule EPA has not provided an exemption for either routine spills or emergencies. Most of the commenters supporting an exemption for emergencies argued that the LRT

duration could cause delays and disrupt proper cleanups. Also, commenters were concerned that many sorbents commonly used in cleanups (e.g., Imbiber Beads® and sorbent pillows) cannot be effectively tested in the LRT, and might not meet EPA's definition of nonbiodegradability (as originally proposed). Today's rule, however, requires the simpler and faster PFT, which is already required and should not cause such delays. Furthermore, Imbiber Beads® and similar materials would generally qualify as nonbiodegradable under today's rule, as they are made of high-molecular-weight synthetic polymers. EPA, therefore, agrees with the commenter that an exemption should not be provided for routine spill situations, where sorbents are stockpiled, since response teams can stockpile and use nonbiodegradable sorbents. Furthermore, EPA believes that a special exemption for "emergency" spill cleanups is inappropriate. In the first place, EPA notes that a wide range of sorbents acceptable under today's rules—including most now commonly in use—are available for emergency spill cleanups. In the second place, it is not clear that the statute provides EPA the authority to exempt certain sorbents from the requirements of § 3004(c)(2), and in any case an exemption for certain (but not all) cleanup situations would be difficult to implement and enforce.

EPA, however, emphasizes that today's rule does not prohibit the use of biodegradable sorbents (e.g., sawdust, corn cobs, etc.) in spill cleanups. In fact, many commenters pointed out that such materials have an important role in cleanups, particularly where sorbed wastes will be recycled or incinerated. The rule, instead, merely prohibits landfilling of such wastes after the cleanup; incineration, recycling, or other treatment, would remain as options. In fact, direct landfilling of these wastes would already be prohibited, in most cases, by the land disposal restrictions. Therefore, today's rule is unlikely to have significant effect on cleanups.

One commenter asked EPA to clarify that contaminated soils cleaned up during a spill response would not be subject to today's rule affecting sorbents. EPA agrees that contaminated soils are not subject to today's rule. The rule covers sorbents added to liquid hazardous wastes for the purpose of solidifying or stabilizing the wastes. For contaminated soils, the situation is different. The soils are not added to wastes to eliminate liquids; rather, the contaminated soil is, in effect, the waste as it was generated. Thus, the soil is not a sorbent, and the question of its biodegradability does not arise. Landfilling of the soil, however, would of course remain subject to the land disposal restrictions.

E. Sorbent Pillows

Commenters on the December 24, 1986 proposal argued that EPA should exempt sorbent pillows used to control spills and leaks, primarily so that LRT testing would not impede such efforts because of the difficulties in getting representative samples and time delays to do the testing. In the June 24, 1987 supplemental notice, EPA proposed to exempt sorbent pillows used to control spills or leaks, including socks, wipes, and rags, in a manner similar to lab packs. Under this proposal, the sorbent pillows would have to be nonbiodegradable, be surrounded by enough additional unused nonbiodegradable sorbent material to sorb any releases, and be placed in certain specified containers of 110 gallon capacity or less. Further, the sorbent pillows would still need to pass the PFT and only sorbent pillows could be placed in the same container.

Since the PFT rather than the LRT is required in today's rule, the exemption for sorbent pillows from the LRT is no longer needed. In fact, the proposed exemption, imposing the lab pack requirements in lieu of the LRT, would not be more restrictive than the approach in today's rule. Imposing the lab pack requirements would now treat sorbent pillows more stringently than other sorbed wastes, would complicate remediations, would add to the waste volume to be disposed, would be vague (how much additional sorbent is enough) and difficult to enforce, and would be generally unnecessary, given the land disposal restrictions requirements. Therefore, the Agency is not providing an exemption for sorbent pillows in today's rule.

Commenters also raised questions about the status of rags and wipes. After reviewing the descriptions and examples given in the legislative history, EPA has concluded that rags and wipes are not the types of materials Congress had in mind and should not be considered to be sorbents in the context of today's rule. In discussing sorbent materials Congress did not include rags and wipes nor materials that rags or wipes are made from in the lists of sorbent materials Congress anticipates EPA will find to be acceptable and unacceptable. The legislative history lists sawdust, municipal waste, shredded paper, and certain vermiculites as unacceptable sorbents, and chemical reagents (cement- or lime-based materials, pozzolanic materials, and thermoplastic or organic binders) and fine-grained materials (e.g., bentonite, montmorillonite, kaolinite, and Fuller's Earth). All of these materials are used to treat large quantities of liquids or to soak up relatively large quantities of spills. Rags and wipes on the other hand are used to clean off soiled or wet surfaces. Thus, today's rule does not change the regulatory treatment under Subtitle C of rags and wipes used in the traditional manner; however, if rags and wipes are used like sorbents, e.g., by putting them in a drum to soak up free-standing liquids, then they need to comply with the nonbiodegradability requirements.

F. Lab Packs and Other Exemptions

The current rules exempt lab packs, very small containers such as ampules, and products that contain liquids for uses other than storage (e.g., batteries) from the liquids in landfills prohibition. These exemptions are consistent with the "minimize liquids in containers" language in the statute, and they are supported by the legislative history. Lab packs are small containers of liquids (typically of one gallon or less), most commonly used for laboratory wastes, that are placed in a drum and surrounded by sufficient sorbent material to sorb the liquids should the containers fail. EPA agrees with the commenters who said the rules should continue to allow the lab pack, ampule, and product container exemptions, with the exception that the rules should be revised to require that lab pack sorbents be nonbiodegradable, for the same reasons that liquids in containers should be sorbed with nonbiodegradable sorbents. Nonbiodegradable sorbents will not degrade, and therefore will not help to produce subsidence and release of liquids when the drums fail. Lab packs are planned management activities in which it is practical to use nonbiodegradable sorbents, and a wide variety of such sorbents are readily available.

G. Waste Analysis and Recordkeeping

In its December 24, 1986 notice, EPA proposed to amend the waste analysis section (§§ 264.13(b)(6) and 265.13(b)(6)) and the recordkeeping sections (§§ 264.73(b)(3) and 265.73(b)(3)) to add references to the specific paragraphs within §§ 264.314 or 265.314 that contain the PFT and the proposed LRT and TOC test requirements. EPA also proposed that a landfill facility's waste analysis plan include procedures that the owner/operator of an offsite landfill will use to

determine whether a generator added a biodegradable sorbent to containerized hazardous waste (§§ 264.13(c)(3) and 265.13(c)(3)).

EPA received numerous comments on these requirements, many addressing the broader issue of who is responsible for waste analysis. In particular, commenters expressed concern that EPA was requiring duplicative testing on the part of landfill owner/operators, and that the responsibility for testing should fall on the generator, the treater, or the sorbent manufacturer rather than the landfill owner/operator. A number of commenters, for example, recommended that EPA require sorbent manufacturers to certify that a sorbent is nonbiodegradable, and that the manifest should be amended to require that the certification be attached.

EPA understands the concerns of the commenters, but it believes that the rule as proposed is sufficiently flexible to accommodate them. Therefore, in today's rule EPA has made only limited changes to the proposal.

First, EPA has eliminated the proposed language added to §§ 264.13(b)(6), 265.13(b)(6), 264.73(b)(3), and 265.73(b)(3) because these already refer to §§ 264.314 or 265.314. It is not necessary to identify the specific paragraphs in these sections that refer to the PFT and the biodegradation standards.

Second, EPA has retained the proposed requirements of §§ 264.13(c)(3) and 265.13(c)(3) for off-site landfills, with slight rewording to clarify that off-site treaters as well as generators may be adding sorbents. These sections ensure that commercial off-site landfill owner/operators specify in their Waste Analysis Plans the procedures they plan to use to assure compliance.

In response to the commenters described above, EPA emphasizes the flexibility of its approach toward biodegradability in today's rule. The rule does not prescribe how a landfill owner/operator must verify that sorbents are nonbiodegradable—only that the Waste Analysis Plan describe the procedures the landfill owner/operator will use to determine compliance. For on-site disposal, this requirement will be easy to meet. For off-site disposal, EPA expects that the landfill operator will generally rely on information provided by the generator or treater. For example, a landfill operator might require generator notification where sorbents have been used, and certifications that the specific sorbent used meets the criteria of §§ 264.314(e) or 265.314(f), along with confirmatory data. EPA generally believes such an approach would be appropriate and sufficient. Consistent with today's rule, however, EPA believes that the specific procedures are best addressed on a site-by-site basis. Today's rule provides the flexibility for such an approach.

H. Free-Standing Liquids

Section 264.314(d) states: "*Containers* holding *free liquids* must not be placed in a landfill unless: (1) All free-standing liquid: (i) Has been removed by decanting, or other methods; (ii) has been mixed with absorbent or solidified so that free-standing liquid is no longer observed; or (iii) has been otherwise eliminated" (emphasis added). The same requirement appears in § 265.314(c). Sections 264.314(c) and 265.314(d) state that "To demonstrate the absence or presence of *free liquids* in either a *containerized* or a bulk waste, the following test must be used: Method 9095 (Paint Filter Liquids Test)" (emphasis added).

In the December 24, 1986, proposal, EPA stated that it saw an inconsistency between these two requirements—on the one hand, containerized wastes containing free liquids could be placed in a landfill, if the liquids were removed (e.g., decanted, § 264.314(d)), and on the other hand, containerized wastes containing free liquids (as defined by the Paint Filter Test) were prohibited from placement in a landfill (§ 264.314(c)). Consequently, EPA proposed to delete §§ 264.314(d)(1) and 265.314(c)(1), making it clear that wastes placed in landfills cannot contain free liquids, as defined by the PFT.

No comments were received on this proposal. However, after reexamining the regulations, EPA has reached the conclusion that they are not inconsistent. Instead, the regulations spell out two different requirements: (1) That landfilled wastes meet the PFT, and (2) that free-standing liquids in containerized wastes be decanted or otherwise eliminated before land disposal. Containerized wastes must meet both requirements. EPA sees no reason to modify or eliminate the independent prohibition on free-standing liquids, on the grounds that it is inconsistent or redundant. In fact, EPA has found the requirement a useful enforcement tool, and has no evidence that the regulated community has been confused by it. Therefore, EPA has decided not to finalize the proposed change.

I. Implementation

As discussed in Section V.A. of this preamble, today's rule is promulgated under the authority of the Hazardous and Solid Waste Amendments (HSWA). Therefore, it will become effective in RCRA-authorized and nonauthorized States six months from the publication of this notice.

Interim status facilities will be subject to today's rule on its effective date. Therefore, these facilities should modify their waste analysis plans and procedures appropriately by that date. On the other hand, under EPA's regulations, RCRA permits generally provide a shield against new regulatory requirements (§ 270.4). Therefore, permitted facilities may continue to operate under their existing permits (and their waste analysis plans) until EPA modifies the permit in accordance with § 270.41 or as part of a 5-year land disposal permit review, or until the permit terminates and a new permit is issued.

V. State Authority

A. Applicability of Rule in Authorized States

Under section 3006 of RCRA, EPA may authorize qualified States to administer and enforce the RCRA program within the State. Following authorization, EPA retains enforcement authority under sections 3008, 3013, and 7003 of RCRA, although authorized States have primary enforcement responsibility. The standards and requirements for authorization are found in 40 CFR part 271.

Prior to the Hazardous and Solid Waste Amendments of 1984 (HSWA), a State with final authorization administered its hazardous waste program in lieu of EPA's administering the Federal program in that State. EPA could not issue permits for any facilities that the State was authorized to permit. When new, more stringent Federal requirements were promulgated, the State was obliged to enact equivalent authority within specified time frames. New Federal requirements did not take effect in an authorized State until the State adopted the requirements as State law and was authorized for the requirements.

In contrast, under RCRA section 3006(g), new requirements imposed by HSWA take effect in authorized States at the same time that they take effect in non-authorized States. EPA is directed to carry out these requirements in authorized States, including the issuance of permits, until the State is granted authorization to do so. While States must still adopt HSWA-based provisions as State law to retain authorization, the HSWA-based requirements apply in authorized States in the interim.

Today's final rule for containerized liquids in landfills is issued under RCRA section 3004(c), which was added by HSWA. These HSWA-based requirements are being added to Table 1 in 40 CFR 271.1(j), which identifies the Federal program requirements that are promulgated pursuant to HSWA and take effect in all States, regardless of their authorization status. As noted above, EPA will implement these HSWA-based sections in today's rule in authorized States until the State programs are modified to adopt these rules and the modification is approved by EPA. Because these requirements are finalized pursuant to HSWA, a State submitting a program modification may apply to receive either interim or final authorization under RCRA section 3006(g)(2) or 3006(b), respectively, on the basis of State requirements that are equivalent or substantially equivalent to EPA's. The procedures and schedule for State program modifications for either interim or final authorization are described in 40 CFR 271.21. The deadline by which the States must modify their programs to adopt today's rule is (July 1, 1994).

B. Effect on State Authorizations

Section 40 CFR 271.21(e)(2) requires States that have final authorization to modify their programs to reflect Federal program changes and to submit the modification to EPA for approval. The deadline by which the State must modify its program to adopt this regulation is determined by the promulgation date in accordance with 40 CFR 271.21(e). These deadlines can be extended in certain cases (40 CFR 271.21(e)(3)). Once EPA approves the modification, the State requirements become Subtitle C RCRA requirements.

Authorized States are only required to modify their programs when EPA promulgates Federal regulations that are more stringent or broader in scope than the existing Federal regulations. For Federal program changes that are less stringent or reduce the scope of the Federal program, States are not required to modify their programs. This is a result of RCRA section 3009, which allows States to impose regulations in addition to those in the Federal program. EPA has determined that today's containerized liquids in landfills rule is more stringent than the current Federal regulations. Therefore, authorized States are required to modify their programs if needed to adopt regulations that are equivalent or substantially equivalent to today rule.

States with authorized RCRA programs may already have requirements similar to those in today's rule. These State regulations have not been assessed against the Federal regulations being finalized today to determine whether they meet the tests for authorization. Thus, a State is not authorized to implement these requirements in lieu of EPA until the State program modification is approved. Of course, States with existing standards may continue to administer and enforce their standards as a matter of State law. In implementing the Federal program, EPA will work with States under agreements to minimize duplication of efforts. In many cases, EPA will be able to defer to the States in their efforts to implement their programs rather than take separate actions under Federal authority.

States that submit official applications for final authorization less than 12 months after the effective date of these regulations are not required to include standards equivalent to these regulations in their application. States that submit official applications for final authorization 12 months or more after the effective date of these regulations must include standards equivalent to these regulations in their application. The requirements a State must meet when submitting its final authorization application are set forth in 40 CFR 271.3.

VI. Regulatory Requirements

A. Economic Impact Analysis

Executive Order 12291 (Section 3(b)) requires regulatory agencies to prepare Regulatory Impact Analyses for all "major" rules. Today's rule is not a major rule because it will not result in: an annual effect on the economy of $100 million or more; a major increase in costs or prices for consumers, individual industries, Federal, State, and local government agencies, or geographic regions; or significant adverse effects on competition, employment, investment, productivity, innovation, or international trade. Therefore, the Agency has not prepared a Regulatory Impact Analysis for today's rule.

EPA did, however, review costs associated with this rule in "Economic Impact Analysis of Liquids in Landfills Rule Regarding Containerized Sorbents." The total additional annualized costs of implementing this rule are estimated to be under $1 million. The implementation costs are minimal because hazardous waste landfills must already use the Paint Filter Test (for all wastes, not just sorbed wastes), and most sorbents currently in use need not be tested for biodegradability because they are clearly identified as acceptable on the nonbiodegradables lists in the rule or as unacceptable on the biodegradables list provided as guidance in the preamble. The rest need be tested only once per sorbent type for nonbiodegradability (it is the sorbents that are tested for biodegradation, not the wastes). For those sorbents that are currently used that are unacceptable, there are readily available sorbents of comparable costs and efficiencies so that the economic impact of such substitutions are minimal.

This rule has been reviewed by the Office of Management and Budget in accordance with Executive Order 12291.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act of 1980 (5 U.S.C. 601 et seq.) requires Federal regulatory agencies to prepare a Regulatory Flexibility Analysis (RFA) for all regulations that have "a significant economic impact on a substantial number of small entities." Today's rule, as EPA's economic analysis indicates, will involve only a trivial increase in costs for regulated industry. Therefore, EPA certifies that today's regulation will not have a significant economic impact on a substantial number of small entities. As a result, no Regulatory Flexibility Analysis is needed.

C. Paperwork Reduction Act

The information collection requirements in this rule have been approved by the Office of Management and Budget (OMB) under the *Paperwork Reduction Act*, 44 U.S.C. 3501 *et seq.* and have been assigned control number 2050–0125.

The public reporting burden for this collection of information is estimated to average 3.6 hours per response for the first year and 0.8 hours per response in subsequent years. This burden includes time for reviewing the regulations, searching existing data sources, gathering and maintaining the required data, and completing and reviewing the collection of information.

Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Chief, Information Policy Branch, PM–223Y, U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460 and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, marked "Attention: Jonathan Gledhill".

VII. Supporting Documents

The following document has been prepared in support of this rulemaking and placed in docket F–92–CLLF–FFFFF.

"Economic Impact Analysis of Liquids in Landfills Rule Regarding Containerized Sorbents," EPA, October 23, 1992.

List of Subjects

40 CFR Part 260

Administrative practice and procedure, Confidential business information, Hazardous waste.

40 CFR Part 264

Air pollution control, Hazardous waste, Insurance, Packaging and containers, Reporting and recordkeeping requirements, Security measures, Surety bonds.

40 CFR Part 265

Air pollution control, Hazardous waste, Insurance, Packaging and containers, Reporting and recordkeeping requirements, Security measures, Surety bonds, Water supply.

40 CFR Part 271

Administrative practice and procedure, Confidential business information, Hazardous materials transportation, Hazardous waste, Indian lands, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Water pollution control, Water supply.

Dated: October 30, 1992.

William K. Reilly,

Administrator.

For the reasons set forth in the preamble, 40 CFR parts 260, 264, 265, and 271 are amended as follows.

PART 260—HAZARDOUS WASTE MANAGEMENT SYSTEM: GENERAL

1. The authority citation for part 260 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912(a), 6921–6927, 6930, 6934, 6935, 6937, 6938, 6939, and 6974.

2. Section 260.10 is amended by adding the definition of "sorbent" in alphabetical order, to read as follows:

§ 260.10 Definitions

* * * * *

Sorbent means a material that is used to soak up free liquids by either adsorption or absorption, or both. *Sorb* means to either adsorb or absorb, or both.

* * * * *

PART 264—STANDARDS FOR OWNERS AND OPERATORS OF HAZARDOUS WASTE TREATMENT, STORAGE, AND DISPOSAL FACILITIES

1. The authority citation for part 264 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912(a), 6924, and 6925.

2. Section 264.13 is amended by adding paragraph (c)(3) to read as follows:

§ 264.13 General waste analysis.

* * * * *

(c) * * *

(3) The procedures that the owner or operator of an off-site landfill receiving containerized hazardous waste will use to determine whether a hazardous waste generator or treater has added a biodegradable sorbent to the waste in the container.

* * * * *

3. Section 264.314 is amended by redesignating paragraph (e) as (f), revising paragraphs (a)(2), (b), and (d)(1)(ii), and adding new paragraph (e) to read as follows:

§ 264.314 Special requirements for bulk and containerized liquids.

(a) * * *

(2) Before disposal, the liquid waste or waste containing free liquids is treated or stabilized, chemically or physically (e.g., by mixing with a sorbent solid), so that free liquids are no longer present.

(b) Effective May 8, 1985, the placement of bulk or non-containerized liquid hazardous waste or hazardous waste containing free liquids (whether or not sorbents have been added) in any landfill is prohibited.

* * * * *

(d) * * *

(1) * * *

(ii) has been mixed with sorbent or solidified so that free-standing liquid is no longer observed; or

* * * * *

(e) Sorbents used to treat free liquids to be disposed of in landfills must be nonbiodegradable. Nonbiodegradable sorbents are: materials listed or described in paragraph (e)(1) of this section; materials that pass one of the tests in paragraph (e)(2) of this section; or materials that are determined by EPA to be nonbiodegradable through the part 260 petition process.

(1) Nonbiodegradable sorbents. (i) Inorganic minerals, other inorganic materials, and elemental carbon (e.g., aluminosilicates, clays, smectites, Fuller's earth, bentonite, calcium bentonite, montmorillonite, calcined montmorillonite, kaolinite, micas (illite), vermiculites, zeolites; calcium carbonate (organic free limestone); oxides/hydroxides, alumina, lime, silica (sand), diatomaceous earth; perlite (volcanic glass); expanded volcanic rock; volcanic ash; cement kiln dust; fly ash; rice hull ash; activated charcoal/activated carbon); or

(ii) High molecular weight synthetic polymers (e.g., polyethylene, high density polyethylene (HDPE), polypropylene, polystyrene, polyurethane, polyacrylate, polynorborene, polyisobutylene, ground synthetic rubber, cross-linked allylstyrene and tertiary butyl copolymers). This does not include polymers derived from biological material or polymers specifically designed to be degradable; or

(iii) Mixtures of these nonbiodegradable materials.

(2) Tests for nonbiodegradable sorbents. (i) The sorbent material is determined to be nonbiodegradable under ASTM Method G21–70 (1984a)—Standard Practice for Determining Resistance of Synthetic Polymer Materials to Fungi; or

(ii) The sorbent material is determined to be nonbiodegradable under ASTM Method G22–76 (1984b)—Standard Practice for Determining Resistance of Plastics to Bacteria.

* * * * *

4. Section 264.316 is amended by revising paragraphs (b) and (c) to read as follows:

§ 264.316 Disposal of small containers of hazardous waste in overpacked drums (lab packs).

* * * * *

(b) The inside containers must be overpacked in an open head DOT-specification metal shipping container (49 CFR parts 178 and 179) of no more than 416-liter (110 gallon) capacity and surrounded by, at a minimum, a sufficient quantity of sorbent material, determined to be nonbiodegradable in accordance with § 264.314(e), to completely sorb all of the liquid contents of the inside containers. The metal outer container must be full after it has been packed with inside containers and sorbent material.

(c) The sorbent material used must not be capable of reacting dangerously with, being decomposed by, or being ignited by the contents of the inside containers, in accordance with § 264.17(b).

* * * * *

PART 265—INTERIM STATUS STANDARDS FOR OWNERS AND OPERATORS OF HAZARDOUS WASTE TREATMENT, STORAGE, AND DISPOSAL FACILITIES

1. The authority citation for Part 265 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912(a), 6924, 6925, 6935, and 6936.

2. Section 265.13 is amended by adding paragraph (c)(3) to read as follows:

§ 265.13 General waste analysis.

* * * * *

(c) * * *

(3) The procedures that the owner or operator of an off-site landfill receiving containerized hazardous waste will use to determine whether a hazardous waste generator or treater has added a biodegradable sorbent to the waste in the container.

* * * * *

3. Section 265.314 is amended by redesignating paragraph (f) as (g), revising paragraphs (a)(2), (b), and (c)(1)(ii), and adding new paragraph (f) to read as follows:

§ 265.314 Special requirements for bulk and containerized liquids.

(a) * * *

(2) Before disposal, the liquid waste or waste containing free liquids is treated or stabilized, chemically or physically (e.g., by mixing with a sorbent solid), so that free liquids are no longer present.

(b) Effective May 8, 1985, the placement of bulk or non-containerized liquid hazardous waste or hazardous waste containing free liquids (whether or not sorbents have been added) in any landfill is prohibited.

(c) * * *

(1) * * *

(ii) has been mixed with sorbent or solidified so that free-standing liquid is no longer observed; or

* * * * *

(f) Sorbents used to treat free liquids to be disposed of in landfills must be nonbiodegradable. Nonbiodegradable sorbents are: materials listed or described in paragraph (f)(1) of this section; materials that pass one of the tests in paragraph (f)(2) of this section; or materials that are determined by EPA to be nonbiodegradable through the Part 260 petition process.

(1) Nonbiodegradable sorbents. (i) Inorganic minerals, other inorganic materials, and elemental carbon (e.g., aluminosilicates, clays, smectites, Fuller's earth, bentonite, calcium bentonite, montmorillonite, calcined montmorillonite, kaolinite, micas (illite), vermiculites, zeolites; calcium carbonate (organic free limestone); oxides/hydroxides, alumina, lime, silica (sand), diatomaceous earth; perlite (volcanic glass); expanded volcanic rock; volcanic ash; cement kiln dust; fly ash; rice hull ash; activated charcoal/activated carbon); or

(ii) High molecular weight synthetic polymers (e.g., polyethylene, high density polyethylene (HDPE), polypropylene, polystyrene, polyurethane, polyacrylate, polynorborene, polysobutylene, ground synthetic rubber, cross-linked allylstyrene and tertiary butyl copolymers). This does not include polymers derived from biological material or polymers specifically designed to be degradable; or

(iii) Mixtures of these nonbiodegradable materials.

(2) Tests for nonbiodegradable sorbents. (i) The sorbent material is determined to be nonbiodegradable under ASTM Method G21–70 (1984a)—Standard Practice for Determining Resistance of Synthetic Polymer Materials to Fungi; or

(ii) The sorbent material is determined to be nonbiodegradable under ASTM Method G22–76 (1984b)—Standard Practice for Determining Resistance of Plastics to Bacteria.

* * * * *

4. Section 265.316 is amended by revising paragraphs (b) and (c) to read as follows:

§ 265.316 Disposal of small containers of hazardous waste in overpacked drums (lab packs).

* * * * *

(b) The inside containers must be overpacked in an open head DOT-specification metal shipping container (49 CFR parts 178 and 179) of no more than 416-liter (110 gallon) capacity and surrounded by, at a minimum, a sufficient quantity of sorbent material, determined to be nonbiodegradable in accordance with § 265.314(f), to completely sorb all of the liquid contents of the inside containers. The metal outer container must be full after it has been packed with inside containers and sorbent material.

(c) The sorbent material used must not be capable of reacting dangerously with, being decomposed by, or being ignited by the contents of the inside container's in accordance with § 265.17(b).

* * * * *

PART 271—REQUIREMENTS FOR AUTHORIZATION OF STATE HAZARDOUS WASTE PROGRAMS

1. The authority citation for Part 271 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912(a) and 6926.

2. Section 271.1(j) is amended by adding the following entry to Table 1 in chronological order by date of publication:

§ 271.1 Purpose and scope.

* * * * *

TABLE 1.—REGULATIONS IMPLEMENTING THE HAZARDOUS AND SOLID WASTE AMENDMENTS OF 1984

Promulgation date	Title of regulation	Federal Register reference	Effective date
*	*	*	*
Nov. 18, 1992	Containerized Liquids in Landfills	57 FR [Insert Federal Register page numbers]	May 18, 1992.

[FR Doc. 92–27289 Filed 11–17–92; 8:45 am]
BILLING CODE 6560–50–M

Federal Register

Wednesday
November 18, 1992

Part III

Environmental Protection Agency

40 CFR Parts 156 and 170

Worker Protection Standard, Hand Labor Tasks on Cut Flowers and Cut Ferns Exception; Reopening of Comment Periods; Final Rule and Proposed Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 156 and 170

[OPP-300164G; FRL-4175-5]

Worker Protection Standard; Reopening of Comment Period

AGENCY: Environmental Protection Agency (EPA).

ACTION: Reopening of comment period.

SUMMARY: On August 21, 1992, EPA issued final revisions to the Worker Protection Standard that solicited comments and additional information concerning the general prohibition of routine hand labor tasks during a restricted-entry interval as well as the mechanism for granting exceptions to that prohibition. In response to requests, EPA is reopening the comment period.

DATES: The original comment period closed on October 20, 1992. The comment period has been reopened; comments must be received by EPA on or before January 19, 1993.

ADDRESSES: Comments identified by the document control number (OPP-300164G) should be submitted in triplicate and submitted by mail to: Public Response and Human Resource Branch, Field Operations Division (H7506C). Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring comments to: Rm. 1132, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA. All written comments filed pursuant to this notice will be available for public inspection in rm. 1132, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA from 8 a.m. to 4:30 p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT: Therese Murtagh, Chief, Occupational Safety Branch (H7506C), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460 (703) 305-7666.

SUPPLEMENTARY INFORMATION:

Electronic Availability: This document is available as an electronic file on *The Federal Bulletin Board* at 9 a.m. the day of publication in the **Federal Register**. EPA's Worker Protection Standard published as a separate Part III in the **Federal Register** of August 21, 1992 (57 FR 38102), and the United States Department of Agriculture's comments on the Worker Protection Standard published as a separate Part IV in the **Federal Register** of September 14, 1992 (57 FR 42472). Both documents are available on *The Federal Bulletin Board*. By modem dial 202-512-1387 or call 202-512-1530 for disks or paper copies. This file is available in Postscript, Wordperfect 5.1 and ASCII.

In the **Federal Register** of August 21, 1992 (57 FR 38102), EPA expressed an interest in receiving comments, data, and other evidence concerning both the general prohibition of routine hand labor tasks during a restricted-entry interval and the mechanism for granting exceptions to that prohibition. Commenters formally requested an extension of the comment period to explore more fully the potential impact of this regulation on the industry, to attempt to obtain data on re-entry intervals, and to develop additional information on these issues.

EPA is interested in a full range of comments and information on these issues and grants a 60-day extension of the comment period.

Dated: November 6, 1992.

Susan H. Wayland,

Acting Director, Office of Pesticide Programs.

[FR Doc. 92-27989 Filed 11-17-92; 8:45 am]

BILLING CODE 6560-50-F

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 170

[OPP-300164F; FRL-4173-9]

Exception To Worker Protection Standard Early Entry Prohibition for Hand Labor Tasks Performed on Cut Flowers and Cut Ferns; Reopening of Comment Period

AGENCY: Environmental Protection Agency (EPA).

ACTION: Reopening of comment period.

SUMMARY: On August 21, 1992, EPA published for comment a proposed exception to the Worker Protection Standard that would allow, under certain conditions, early entry to perform hand labor tasks on cut flowers and cut ferns. In response to a request, EPA is reopening the comment period.

DATES: The original comment period closed on September 21, 1992. The comment period has been reopened; comments must be received by EPA on or before January 19, 1993.

ADDRESSES: Written comments, identified by the document control number (OPP-300164F) should be submitted in triplicate and addressed to the Document Control Officer (H7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

All comments will be available for public inspection from 8:30 a.m. to 4 p.m., Monday through Friday, at the OPP Document Control Office, Rm. 1132, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

FOR FURTHER INFORMATION CONTACT: Therese Murtagh, Chief Occupational Safety Branch (H7506C), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460, (703) 305-7666.

SUPPLEMENTARY INFORMATION:

Electronic Availability: This document is available as an electronic file on *The Federal Bulletin Board* at 9 a.m. the day of publication in the **Federal Register**. EPA's exception to the Worker Protection Standard published as a separate Part III in the **Federal Register** of August 21, 1992 (57 FR 38175), and is available on *The Federal Bulletin Board*. By modem dial 202-512-1387 or call 202-512-1530 for disks or paper copies. This file is available in Postscript, Wordperfect 5.1 and ASCII.

In the **Federal Register** of August 21, 1992 (57 FR 38175), EPA requested comments on a proposed exception to the Worker Protection Standard (40 CFR part 170) that would allow, under specified conditions, early entry to pesticide treated areas to perform routine hand labor tasks on cut flowers and cut ferns.

One commenter formally requested an extension of the comment period. It was noted that other organizations have indicated a desire to comment but that half of the initial comment period had expired before the opportunity for comment was known to them.

The Agency's inclination to grant an exception to the Worker Protection Rule for cut ferns and cut flowers is based on public comments received during the comment period for the Notice of Proposed Rulemaking for 40 CFR parts 156 and 170. The Agency also considered additional information which is in the Regulatory Impact Analysis. The Regulatory Impact Analysis is available in the reference section of docket number OPP-300164E.

EPA is interested in a full range of comments and information on this proposed exception and hereby reopens the comment period for 60 days.

Dated: November 6, 1992.

Susan H. Wayland,

Acting Director, Office of Pesticide Programs.

[FR Doc. 92-27990 Filed 11-17-92; 8:45 am]

BILLING CODE 6560-50-F

Federal Register

Wednesday
November 18, 1992

Part IV

Department of the Interior

Bureau of Indian Affairs

Intent to Prepare an Environmental Impact Statement for the Livestock Grazing and Prairie Dog Management Programs for the Cheyenne River and Rosebud Sioux Indian Reservations, SD; Notice

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Intent to Prepare an Environmental Impact Statement (EIS) for the Livestock Grazing and Prairie Dog Management Programs for the Cheyenne River and Rosebud Sioux Indian Reservations, SD; Notice

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of intent.

SUMMARY: This notice advises the public that the Bureau intends to gather information necessary for the preparation of an Environmental Impact Statement (EIS) on Livestock Grazing and Prairie Dog Management Programs for the Cheyenne River and Rosebud Sioux Indian Reservations, South Dakota. This notice corrects a previous **Federal Register** notice dated Monday, October 5, 1992, (57 FR 45958) to include the Cheyenne River Reservation in the EIS process. Scoping meetings regarding this proposal and preparation of this EIS have already been held for the Rosebud Reservation (October 13–14, 1992). Scoping meetings will also be held for the Cheyenne River Reservation.

This notice is being furnished as required by the National Environmental Policy Act (NEPA) Regulations (40 CFR 1501.7) to obtain suggestions and information from other agencies and the public on the scope of issues to be addressed in the EIS. Comments and participation in this scoping process are being solicited.

DATES: Written comments must be received by December 14, 1992. This comment period is open to the Cheyenne River and Rosebud Reservations. Scoping meetings will be held November 17–18, 1992.

ADDRESSES: Three scoping meetings are scheduled for the Cheyenne River Reservation: November 17, 1992, at Takini School from 7 p.m. to 10 p.m. in Howes, SD; November 18, 1992, at the Cheyenne River Tribal Council Chambers from 12 noon to 4 p.m. in Eagle Butte, SD; and November 18, 1992, at the LaPlant Community Center from 7 p.m. to 10 p.m. in LaPlant, SD.

Interested parties are also encouraged to send written comments concerning the project to: Dr. Jerry Jaeger, Area Director, Bureau of Indian Affairs, Aberdeen Area Office, 115 4th Avenue SE, Aberdeen, SD 57401. Fax: (605) 226–7446.

FOR FURTHER INFORMATION CONTACT: Ken Parr, Bureau of Indian Affairs (BIA), Aberdeen Area Office, 115 4th Avenue SE, Aberdeen, SD 57401. Phone: (605) 226–7621. Fax: (605) 226–7358.

The Prairie Management Plan for the Cheyenne River Sioux Reservation (May 1992) and the September 1991 Environmental Assessment for the Prairie Dog Control Program: Cheyenne River and Rosebud Indian Reservations can be obtained by writing Ken Parr.

SUPPLEMENTAL INFORMATION:

History

In 1991, the BIA began studying tribal council proposals to poison prairie dogs on the Cheyenne River and Rosebud Reservations. Soon after, the BIA completed an Environmental Assessment (EA) pursuant to NEPA and a biological assessment pursuant to the Endangered Species Act. At the time, the BIA lacked the sufficient personnel, time, and funding to meet the U.S. Fish and Wildlife Service (USFWS) and NEPA requirements for analyzing the impacts on prairie dog/black-footed ferret habitat and various threatened, endangered, and candidate species, such as the bald eagle and swift fox. For the EA, the BIA only initially investigated the effects of prairie dog poisoning.

The USFWS issued a biological opinion pursuant to the Endangered Species Act that the proposed poisoning programs would jeopardize the survival and recovery of the black-footed ferret. The Defenders of Wildlife and the Sierra Club threatened suit if the BIA implemented the alternative of poisoning prairie dogs because it could jeopardize potential black-footed ferret recovery and violate the Endangered Species Act. The organizations also disagreed with the BIA's conclusion that the proposed poisoning would not significantly affect the environment.

The BIA has since continued current management until it could prepare an EIS.

This Notice of Intent formally initiates the EIS analysis process pursuant to NEPA.

Need for Action

Livestock grazing on the Cheyenne River and Rosebud Sioux Indian Reservations contributes substantially to the economic livelihood of Indian landowners and livestock operators on the reservation. Livestock grazing also supports the tribal governments through permitting and leasing of tribal trust lands.

The tribal councils want to maintain the land productivity to receive the highest benefit and best use now and in the future. In addition, the BIA has a trust responsibility to maintain this land productivity. The tribal councils feel that some grazing lands are degraded and that a symptom of the overall range concern is prairie dog overpopulation. Many perceive that prairie dogs compete with livestock for forage, resulting in economic losses.

In 1990, the Tribal Councils of the Cheyenne River and Rosebud Reservations requested funding from Congress for prairie dog control to maintain or improve the range condition and increase the number of livestock that could be grazed on these lands. Congress appropriated these funds for both reservations for fiscal year 1991. However, Congress encouraged the BIA to work with the tribes and the USFWS to reorient the program to avoid poisoning wherever possible and develop management programs that will allow livestock to coexist with prairie dogs.

The resulting EA analyzed prairie dogs and their habitat, the plant and wildlife species associated with prairie dog habitat, and livestock grazing. After the EA was completed, the Cheyenne River Sioux Tribal Council developed a plan to manage the entire prairie ecosystem, including prairie dog and livestock grazing management. The council has been lobbying Congress for money to implement this plan (From: Prairie Management Plan for the Cheyenne River Sioux Reservation, May 1992. DuBray, F. et al. 32 pp.).

The Rosebud Sioux Tribe is planning to continue management programs by implementing livestock grazing management and chemical control of prairie dogs.

Objectives

Since the reservations have proposed different approaches to managing the rangelands, each reservation has developed a management objective that will be addressed in the EIS.

Cheyenne River Reservation. Cheyenne River Sioux Tribe wants to restore (where necessary) and maintain a healthy prairie ecosystem to optimize Lakota cultural, social, and economic benefits for the people now and in the future, as established by the tribal council.

Rosebud Reservation. The Rosebud Sioux Tribal Council wants to maintain the range condition and the number of grazed livestock at its present level and/or increase the level where appropriate through management of the range ecosystem and/or the chemical control of prairie dogs within a 3 to 5 year period.

Decisions to Be Made

The BIA Area Director must make the following decisions (recognizing that

different decisions might be appropriate for each reservation):

1. Should each reservation continue its current wildlife, livestock grazing, and prairie dog management programs?

2. If not, specifically how, where, and when should the stated objectives be met?

Proposed Action

Cheyenne River Reservation

The proposed action is to restore the prairie ecosystem to a more natural state in which prairie dog populations are maintained at acceptable levels through grazing management systems that allow wildlife species to coexist with livestock production. Livestock grazing management systems include:

—Water development by drilling wells and/or constructing stock dams (903 new water sources over 5 years).
—Range Unit fencing to accommodate grazing rotation (682.5 miles of cross fencing over 5 years).
—Funding of habitat set-asides to compensate landowners for retaining prairie dog colonies to maintain biodiversity and enhance black-footed ferret populations.
—Adoption of conservation measures for threatened, endangered, and candidate species listed pursuant to the Endangered Species Act.
—Education of permittees, tribal and BIA land managers, individual landowners, and the public on the benefits and actual implementation of the proposed management techniques.
—Bison grazing on 100,000 acres of tribal land within 5 years.
—Limited control of prairie dogs, where appropriate.
—Funding obtained ($10,390,960 for 5 years) from sources such as earmarked congressional appropriations, Soil Conservation Service, USFWS's North American Wetlands Conservation Project, the 1991 Farm Bill, and the Agricultural Stabilization and Conservation Service.

Rosebud Reservation

The Rosebud Sioux Tribe proposes to restore the prairie ecosystem to a more natural state in which prairie dog populations are maintained at acceptable levels. This will be accomplished by using rodenticide control of all prairie dogs on all reservation lands and by maintaining and improving the range resource through range improvement practices consisting of but not limited to:

—Cross fencing.
—Water development.
—Mechanical treatments.
—Replanting of tame and native grasses.
—Implementation of a range use management plan to mitigate the reinfestation of prairie dog towns.

This proposed action will require 5 years for completion at an estimated cost of $5,947,020 for control work and an additional $9,905,545 for range improvements, totalling $15,852,565.

Significant Issues to Be Considered in Detail

—Impact on black-footed ferrets and the potential for recovery through reintroduction efforts.
—Biodiversity in the prairie ecosystem.
—Economic feasibility of the various methods of prairie dog control related to meeting livestock grazing and range management objectives.
—Impact on bald eagles, peregrine falcons, swift foxes, golden eagles, whooping cranes, and other species.

Based on comments obtained through this scoping effort, other issues may also be included in the analysis.

Additional Alternatives that May Be Considered

—Continuing the current wildlife, livestock grazing, and prairie dog management programs (the "No Action" alternative).
—Implementing livestock grazing and other appropriate management systems with no chemical control of prairie dogs.
—Implementing various combinations of livestock grazing management systems, other appropriate management systems, and prairie dog control programs.

Based on comments obtained through this scoping effort, other alternatives may also be included in this analysis.

The environmental review of this project will be conducted according to the requirements of the National Environmental Policy Act of 1969 as amended (42 U.S.C. 4321 et seq.); Council of Environmental Quality Regulations implementing NEPA (40 CFR parts 1500–1508); U.S. Department of Interior NEPA Procedures (516 DM 1–6); and Bureau of Indian Affairs NEPA Procedures (30 BIAM Supplement 1).

We estimate that the Draft EIS will be available to the public by March 15, 1993. It will be preceded by a Notice of Availability published in the **Federal Register** as well as the same sources used to publish this Notice of Intent.

This notice is published in exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM 8.

Dated: November 13, 1992.

Eddie F. Brown,

Assistant Secretary, Indian Affairs.

[FR Doc. 92–27904 Filed 11–17–92; 8:45 am]

BILLING CODE 4310–02–M

federal register

Wednesday
November 18, 1992

Part V

Department of Justice

Office of Justice Programs

Office of Juvenile Justice and Delinquency Prevention

Missing Children's Assistance Act; Proposed Priorities for Fiscal Year 1993; Notice

DEPARTMENT OF JUSTICE

Office of Justice Programs

Office of Juvenile Justice and Delinquency Prevention

Missing Children's Assistance Act; Proposed Priorities for Fiscal Year 1993

AGENCY: Office of Juvenile Justice and Delinquency Prevention, Justice.

ACTION: Notice of proposed program priorities for FY 1993 research, demonstration projects, and service programs and merit selection criteria under the Missing Children's Assistance Act.

SUMMARY: The Office of Juvenile Justice and Delinquency Prevention (OJJDP) is publishing its Fiscal Year 1993 proposed program priorities for making grants and contracts under section 405 of title IV (the Missing Children's Assistance Act) of the Juvenile Justice and Delinquency Prevention Act of 1974, as amended, 42 U.S.C. 5775, hereafter referred to as the JJDP Act.

DATES: All comments must be received by 5 p.m. January 19, 1993.

ADDRESSES: All comments must be mailed or sent to: Kathryn Turman, Director, Missing and Exploited Children Program, Office of Juvenile Justice and Delinqency Prevention, 633 Indiana Avenue, NW., Washington, DC 20531.

FOR FURTHER INFORMATION CONTACT: Darlene Brown at the above address. Telephone (202) 514–4622.

SUPPLEMENTARY INFORMATION: Responsibility for establishing priorities for annual research, demonstration projects, and service programs and criteria for making grants and contracts pursuant to section 405 of the Missing Children's Assistance Act rests with the Administrator of the Office of Juvenile Justice and Delinquency Prevention. For FY 1993 four new programs and potentially 13 continuation programs will constitute all proposed section 405 priority funding areas. The Administrator is announcing these priorities, specifying merit and performance criteria to be applied in their review.

During FY 1993 other new programs, or continuations of currently funded programs, may also be funded under sections 404 and 408 of the Missing Children's Assistance Act. Solicitations to fund all new Title IV assistance awards in amounts exceeding $50,000 will be announced in the **Federal Register** and competitively awarded. Described below are discretionary programs being planned for funding under sections 404(b)(3), 405, and 408 of the Missing Children's Assistance Act followed by a listing of continuation programs currently funded under section 405 which are proposed as eligible to receive continuation funding during their currently existing project periods. Following a sixty-day comment period, OJJDP will publish in the **Federal Register** a final plan, including the substantive comments received. Thereafter, OJJDP will publish and make available a document including full program announcements of those programs labeled as "new programs" and the application kit.

Introduction

Through the Missing and Exploited Children Program, OJJDP funds and coordinates many diverse activities on behalf of missing and exploited children. The National Center for Missing and Exploited Children (NCMEC) serves as the national clearinghouse and resource center and utilizes the latest in advanced computer technology to assist in the timely collection and dissemination of leads and information on missing children's cases. NCMEC currently produces updated photos of missing children through computer age progession technology and will assist OJJDP in establishing five age progression laboratories in State missing children clearinghouses during FY 1993. OJJDP will continue ongoing training and technical assistance to a network of 42 State clearinghouses, numerous nonprofit organizations, prosecutors, law enforcement personnel, judges, and attorneys. Current research projects include a study of the risk factors in parental abduction cases, a study of the sexual exploitation of children and youth, and an examination of current and effective screening practices for child- and youth-serving agencies. The Missing and Exploited Children Comprehensive Action Program (M/CAP) assists communities in developing a multi-disciplinary approach to handling child victim cases through ongoing training and technical assistance. In FY 1993, OJJDP proposes to award a non-competitive grant to the University of Michigan to establish a missing and exploited children data archive. The University of Michigan houses the Inter-University Consortium for Political and Social Research. This center facilitates the wide dissemination of major data sets, including other data funded by OJJDP.

In recent years, OJJDP has funded a number of major research projects which have provided needed information on issues relating to missing and exploited children. The focus of both continuing and new programs is to continue to expand this knowledge base and to develop and provide practical training and technical assistance to the field.

New Programs

Second National Incidence Studies of Missing, Abducted, Runaway and Thrownaway Children (NISMART II)—$1,500,000

The purpose of this project is to develop reliable national statistics on missing and exploited youth in America in order to understand better the extent, nature, and trends in the numbers of missing, abducted, runaway, and thrownaway youth in America, the characteristics of the events and the risk factors associated with these problems and other victimizations of children.

Section 404(b)(3) of the Juvenile Justice and Delinquency Prevention Act of 1974, as amended, 42 U.S.C. 5773(b)(3), requires OJJDP to conduct periodic national studies of the incidence of missing and abducted children. "Missing Abducted, Runaway and Thrownaway Children in America, First Report: Numbers and Characteristics" (NISMART I) was developed in 1990 in response to this statutory mandate. It addressed five distinct populations of concern to the study, encompassing those situations in which a child was missing or displaced in some way that put it at risk of harm. The five populations were:

1. Family Abductions (children abducted by parents or other family members),
2. Non-Family Abductions (children abducted by strangers and other non-family members),
3. Runaways,
4. Thrownaways, and
5. Lost or Otherwise Missing.

Subsequent analysis of the NISMART data revealed a substantial number of incidents of other forms of child victimization not captured by any other national data source. These included children who had been physically or sexually assaulted by nonfamily members. These types of victimizations will also be studied under NISMART II. To assist in preparing for NISMART II, OJJDP awarded a planning grant to the Research Triangle Institute (RTI) to review NISMART I and make recommendations for NISMART II and subsequent periodic studies.

Based on the plan developed by RTI, NISMART II will:

- Develop valid and reliable national estimates of the numbers of children who were missing, abducted, runaway

or thrownaway and the number reported to the police and/or known to be missing in the course of a given year as well as the number of these children who are recovered;

- Establish profiles of missing children and characteristics of the episodes;
- Determine the extent and nature of changes in these estimates since 1988; and,
- Develop reliable national estimates of the incidence of physical and sexual assault and exploitation of children and youth by nonfamily members.

While the detailed program strategy has not been developed, OJJDP anticipates that the program will require the following tasks, based on the specifications of the planning work and recommendations of RTI:

- Establish and convene advisory board meetings
- Inaugurate the study scope and definitions
- Develop appropriate research designs, methodologies, and data analysis plans
- Construct the sampling designs and procedures
- Develop and refine data collection instruments and protocols
- Establish quality control methods for the data
- Recruit, hire, and train data collectors
- Collect data and assure its quality
- Perform data "cleaning" and processing
- Construct an analysis file and provide appropriate documentation for it
- Analyze the data and compare findings to NISMART I, as appropriate
- Develop preliminary and final reports as specified in the solicitation
- Develop a dissemination plan for study results, and the data set.

Under the NISMART II planning project, RTI will provide a thorough review of NISMART I for OJJDP, identifying its substantive and technical strengths and weaknesses. RTI will also identify additional information needs for OJJDP in the policy making and program development areas, particularly for prevention and intervention. During the planning, RTI will identify additional sources of data, new or previously untapped, and determine how they may prove useful in producing or validating national estimates or in designing future studies. These additional data sources that may be utilized in NISMART II include the:

- State Clearinghouses for Missing Children and Persons,
- The Federal Bureau of Investigation's (FBI) National Crime Information Center (NCIC) Missing Persons Files and Warrants files,
- FBI's National Incident Based Reporting System (NIBRS),
- The Bureau of Justice Statistics' National Crime Victimization Survey,
- National Center on Child Abuse and Neglect (NCCAN) National Study of the Incidence of Child Abuse and Neglect, and
- Office of Youth Development, Administration for Children and Family, Youth Information Forms from Federally-funded runaway shelters.

As necessary, RTI will test alternative methodologies or approaches to studying different populations. A detailed summary of the proceedings from a planning symposium, including any papers, discussion of findings, and recommendations will be developed and made available to all applicants interested in NISMART II. RTI will prepare a NISMART II Plan providing sufficient recommendations for OJJDP to develop a detailed solicitation for applications to conduct the core components of the NISMART II program, likely to include a household survey and a study of police records.

Investigative Case Management for Missing Children Homicides—$150,000

The purpose of this project is to improve the understanding and investigative procedures in cases of homicides of abducted or runaway children in order more effectively to manage, conduct, and solve individual and serial child murder investigations.

The investigative procedures for missing child homicides involve some unusual factors. Children are particularly vulnerable victims and may be targeted for abduction and assault by repeat rapists or killers. A missing child may produce an intense community pressure on law enforcement for a quick, sure solution—especially if there is evidence that the child was the victim of a non-family abduction or the child's body is found. Such urgency can lead to hasty, unproductive utilization of investigative efforts that may hamper a successful investigation. Cases involving family members as suspects may increase confusion as well as the pressure for swift quality investigations. More effective investigative and case management methods may improve the solution rate of difficult cases. Runaway and thrownaway youth are particularly vulnerable to exploitation, assault, abduction, and murder. Identification of murdered runaways and thrownaways can pose special difficulties for the law enforcement agencies investigating these cases.

Over the past twelve months the National Center for Missing and Exploited Children (NCMEC) through its Case Management and Information Analysis Units have received case profile information from local law enforcement agencies on over 150 cases of missing children who have been murdered over a ten year period. In most of these cases NCMEC had been involved in assisting local authorities and parents to locate the missing child, however some cases were brought to NCMEC after recovery of a child's body by local investigators seeking analysis services or other technical assistance.

There is a recognized need for an instructive investigative guide to missing children and child homicide cases. This program will develop such a guide for local law enforcement designed to provide an experience-based process to direct the investigative attention to priority data. This guide will be based upon an examination and analysis of previous abducted and/or murdered child cases and will include those elements which were the most definitive in leading to swift and successful solutions. The program will develop and provide investigative guidance in taking those vital first investigative steps. Issues to be addressed will include types of evidence to be sought and analyzed, the best information sources to employ, and effective utilization and deployment of investigative resources. Finally, the project will assist the National Center for Missing and Exploited Children (NCMEC) and the Missing and Exploited Children Comprehensive Action Program (M/CAP) to implement a missing child homicide investigation training and technical assistance program for State and local law enforcement.

A Study of the Effectiveness of Private Investigators in Locating and Recovering Parentally Abducted Children—$100,000

The purpose of this project is to determine the utilization and effectiveness of private investigators by searching parents in parental abduction cases. The project will pay special attention to identifying the characteristics and procedures used by highly effective private investigators.

A recent study sponsored by OJJDP on the obstacles to the recovery and return of parentally abducted children indicated that private investigators are generally employed by parents with very limited financial resources. Parents who turned to private investigators for assistance were motivated by dissatisfaction with the level of

investigative activity by the law enforcement agencies with responsibility for their case. Private investigators were employed by one-fourth of the searching parents in this particular study. While satisfaction and results were generally very limited, in a small group of cases satisfaction was very high.

The issues of how these parents search for a private investigator, what criteria they use in deciding to retain the private investigator, and how investigators spend funds for actual child recovery are unknown at present. Families of abducted children and law enforcement agencies both would benefit from a clearer understanding of the extent and effectiveness of services provided by these private investigators.

Issues in Resolving International Child Abduction Cases—$200,000

Our society has become more mobile and the number of international and cross-cultural marriages has increased in recent years, and so has the number of parental child abductions to foreign countries. The problems and obstacles encountered by searching parents in international child abduction cases are compounded by the frustration and difficulties of dealing with the multiple legal systems and cultural issues inherent in many cases. As of this date, 26 countries have adopted the Hague Convention on the Civil Aspects of International Child Abduction, a treaty designed to deter these abductions. While not every case has a successful resolution, State Department data reveals increasing effectiveness in recovering children abducted to countries in which the Hague Convention is operative.

The purpose of this project is to examine the issues and processes, institutional and cultural, encountered by searching parents in international abduction cases. Through surveys and interviews with families who have had a child abducted to another country, the project will explore the nature of these cases, the processes by which parents attempt to locate and recover their child, and the difficulties associated with accessing and dealing with the various systems in both the United States and the country to which the child has been taken. Although legal issues may also be examined, the focus of this project will not be on legal issues alone. The study sample will involve a variety of cases, including cases resolved under the Hague Convention and cases involving non-Hague Convention countries.

Criminal Justice Response to Parental Child Abduction Cases—$450,000

The purpose of this project is to examine the ways in which various criminal justice agencies and systems respond to parental abduction cases. NISMART estimated that there were 354,000 family abduction cases in the year 1988, 163,000 of which involved transporting a child across state line and/or making an effort to conceal the whereabouts of the child. In recent years, OJJDP sponsored several studies which examined various aspects of parental abduction cases, such as legal obstacles to recovery and return, psychological consequences of abduction of children and families, and reunification issues. The results of these studies indicate that although parental abduction is a felony crime in most States, response by the civil and criminal justice system is inconsistent with substantial variation in enforcement and prosecution policies and practices from State to State and even within States. For example, California is the only State which legislatively mandates and funds investigation and prosecution of parental child abductions within the district attorneys' offices. While the majority of parental abduction cases involve taking the child across State lines, Unlawful Flight to Avoid Prosecution Warrants (UFAPS) are obtained in fewer than 10% of these cases, thus precluding assistance from the FBI in locating and apprehending the abductor. For parents without the financial resources to hire private attorneys or private investigators, their children may simply be lost to them.

This project will examine organizational and structural issues in the response to parental child abduction by criminal justice agencies. These agencies will include local law enforcement, State law enforcement (including missing children's clearinghouses), prosecutors' offices, and Federal law enforcement. This study will explore the policies and procedures of these agencies, both formal and informal, as well as case management, record-keeping, legislation, locus of investigative responsibilities, functions, and penalties.

Little is known about the dispositional outcomes in parental child abduction cases in the criminal justice system in the United States. Some studies indicate that few abductors receive sentences of any kind, while other studies indicate a possible increase in prosecution and penalties in some jurisdictions. This project will also examine the variations in dispositions of parental abduction cases through assessing the attrition of cases from arrest to filings to disposition and sentencing.

Field-Initiated Programs—$300,000

In recent years, OJJDP has undertaken a number of major research programs addressing key issues related to missing and exploited children. These studies have formed a basis for program development in the area of training and technical assistance and have also raised a number of specific and related issues which suggest further examination. The Field-Initiated Program invites imaginative and innovative approaches from researchers and practitioners to the discretionary activities authorized by section 405(a) of the Act. Within the Field-Initiated Programs, OJJDP encourages eligible parties to develop ideas for study relevant to the mission of OJJDP's Missing and Exploited Children's Program and to specific priority areas on the subject of family abductions. These priority areas include but are not limited to:

- The impact of domestic violence on custody decisions and parental abductions;
- Post-recovery detention of abducted children by social services agencies, including case outcomes;
- Allegations of child abuse in parental abduction cases;
- Family members and friends who provide assistance to abductors;
- Parents who abduct their children and hold them hostage or murder them; and
- The development of public service announcements for media aimed at public education and awareness of the psychological and legal consequences of parental abduction.

Multi-jurisdictional, Interagency Model for Investigating and Prosecuting Cases of Child Sexual Exploitation—$125,000. ($125,000 from OVC)

The Office for Victims of Crime (OVC) and OJJDP have established a set-aside for this program, however, it is under development and may or may not be funded in 1993. This is a joint project involving the Office of Justice Programs, the Federal Bureau of Investigation, and the participating U.S. Attorney. The goal of this program is to develop and implement a prototype multi-jurisdictional task force approach involving Federal, State, and local authorities that can effectively investigate and prosecute cases involving sexual exploitation of children

and juveniles and assist child and juvenile victims in crisis.

Estimates of the number of adolescents involved in prostitution range from 200,000 to 300,000 nationally. Many of these children are runaway or thrownaway children without secure homes who are extremely vulnerable to sexual exploitation. Juvenile prostitution is often paired with child pornography. The Attorney General's Commission on Pornography found widespread harm associated with child pornography. Production of the material often includes physical harm to the children. Research has shown a "modeling effect" can occur so that those who view materials portraying violence and degradation of children desire to recreate the acts furthering the victimization of children. Although the gravity of the problem has been acknowledged, pursuing these cases is time consuming and resource intensive.

This project will develop a prototype multi-jurisdictional task force to target child pornography and juvenile prostitution and implement centrally coordinated and managed investigations involving Federal, State, and local investigative agencies to identify and locate procurers who recruit juveniles, thus making information accessible to law enforcement agencies in a large geographic area to include the U.S. Postal Service, U.S. Customs, and the FBI; develop a model that involves child protective, social, and medical services in initiating the investigation and providing assistance and support to the child victim in crisis through adjudication to readjustment; provide training for law enforcement officials and others; and initiate a public awareness effort of the harms associated with child pornography and child prostitution. As this project will require the commitment of the U.S. Attorney, the F.B.I., and local law enforcement, only sites where Federal and local law enforcement officials agree to commit the resources to form a multi-jurisdictional effort will be considered. The funds for this project cannot be used for law enforcement efforts, but must be targeted to assisting child and youth victims in crisis and training and public awareness efforts.

Continuation Programs

National Resource Center and Clearinghouse (National Center for Missing and Exploited Children)—$3,600,000

The purpose of this program is to continue the management and maintenance of services by the national resource center and clearinghouse mandated by the Missing Children's Assistance Act. This statute requires the operation of a national resource center and clearinghouse designed to provide the following services: (1) A central collection and dissemination point of information and technical assistance to State and local governments, individuals, parents and other agencies in locating and recovering missing children; (2) the operation of a 24-hour national toll-free hotline for reporting information about missing children; (3) coordination of programs in the field that focus on reuniting missing children with their lawful custodians; (4) development, publication, and dissemination of information about programs, techniques and services responsive to missing children issues; and (5) technical assistance as well as training to law enforcement agencies, State and local government agencies, and others regarding prevention, investigation, reunification and treatment in missing and exploited children cases. New program responsibilities requested by OJJDP will focus on the following areas: (1) Development of specialized personnel, technical assistance and materials related to reunification of missing children; (2) further development of informational networking capabilities between the national clearinghouse, State missing children clearinghouses, and law enforcement agencies; (3) further development of Project ALERT, a program to train and deploy retired law enforcement investigators to assist in missing child cases; (4) strategic assistance to missing children State clearinghouses through technology development, assistance in development of regional coalitions, ongoing training and technical assistance, and a program to develop and support the hosting of State-wide law enforcement training courses by State clearinghouses; (5) expansion of publications development and dissemination; and (6) development and expansion of technical assistance services to law enforcement.

This program will be implemented by the current grantee. No additional applications will be solicited in Fiscal Year 1993.

Prevention of Parent or Family Abduction Through Early Identification of Risk Factors—$300,000

The purpose of this three-phased program is to learn more about the circumstances likely to precipitate the abduction of a child by a parent or family member, with specific attention given to the impact of domestic violence, and to identify and document effective prevention and intervention strategies. The objectives of this program are to investigate and document the circumstances most likely to result in the abduction of a child by a parent or family member; and to identify, demonstrate, and evaluate current public and private programs that appear to be appropriate and effective interventions in preventing parental abductions. This program will be implemented by the current grantee. No additional applications will be solicited in Fiscal Year 1993.

Missing Children: Program to Increase Understanding of Child Sexual Exploitation—$400,000

The purpose of this project is to provide needed information about the nature of the crimes of sexual exploitation of children, the characteristics of the children and youth who become victims, and the response to these cases by social service and justice agencies. This project attempts to clarify definitions of child sexual exploitation and will examine the psychological and environmental factors which may render children vulnerable to exploitation. The objectives of this project are to conduct a throrough review of research literature on the subject of child sexual exploitation and missing children involved in prostitution and pornography, to describe the process by which children become involved, and to identify problems and obstacles faced by the criminal justice system in handling both offenders and victims of sexual exploitation. The project will also describe Federal and State statutes and pertinent case law used in the prosecution and punishment of offenders. This program will be implemented by the current grantee. No additional applications will be solicited in Fiscal Year 1993.

Effective Screening of Child Care and Youth Service Workers—$200,000

Adults (volunteers and paid personnel) who work in agencies and organizations that provide services to and for children and youths are responsible for the guidance, supervision, and general well-being of those under their care. While most such workers are conscientious individuals of high moral values, there have been instances in which employees have victimized children or young persons through sexual exploitation. The purpose of this program is to provide a comprehensive picture of what screening practices, including criminal records checks, are utilized by both the public and private sector and the effectiveness of these practices. Existing

State laws and policies about criminal record screening will also be studied and annotated. This program will identify existing model programs used by child care and youth serving agencies and organizations and recommend steps for the development of a national screening model(s) for States to adopt, including, but not limited to, criminal record checks. This program will be implemented by the current grantee. No additional applications will be solicited in Fiscal Year 1993.

Training and Technical Assistance for Nonprofit Missing Children's Programs—$250,000

This program will provide technical assistance and training to improve the capacity of nonprofit community based missing children's organizations to engage in activities which will successfully prevent the abduction and sexual exploitation of children, assist in the recovery of children, and provide services to child victims and their families. The goal of this project will be to achieve a high level of skill, sophistication and expertise among the private nonprofit agencies and other appropriate organizations serving missing and exploited children through regional training workshops and the dissemination of relevant materials. Training and technical assistance will focus on internal structure and credibility, case protocol and documentation, victim assistance, coordination with law enforcement, reunification preparation, assistance and followup, issue and prevention education, community outreach, referrals, networking, information exchange, improving service delivery, and advocacy. This program will be implemented by the current grantee. No additional applications will be solicited in Fiscal Year 1993.

Grants and Cooperative Agreements To Support Public or Private Nonprofit Missing Children's Agencies Service Activities

This program provides grants for up to three years in amounts ranging from $25,000–$75,000 to support implementation of new or enhanced services to be provided by non-profit agencies, public agencies, or combinations thereof, in the following areas:

(1) Educating parents, children, and community agencies and organizations in ways to prevent the abduction and sexual exploitation of children; (2) providing information to assist in the locating and return of missing children; (3) aiding communities in the collection of materials which would be useful to parents in assisting others in the identification of missing children; (4) assisting missing children and their families following the recovery of such children; (5) conducting activities to reduce the likelihood that individuals under 18 years of age will be removed from the control of their legal custodians without the custodian's consent; and (6) providing services that minimize the negative impact of judicial and law enforcement procedures on children who are victims of abuse or sexual exploitation. The following nine programs constitute current funding support efforts for nonprofits.

Expansion of Mediation Project: Child Find of America, Inc., Up to $75,000

This program is designed to expand mediation program services to prevent parental abductions by increasing the level of awareness of the problem through public service announcements and programs targeting human resources, social service, and health care professionals and the clergy. Additional training will be provided for core mediators and Child Find staff in dispute resolution processes.

Missing and Exploited Children Prevention and Services: Counseling Services of Addison County, Up to $75,000

The purpose of this project is to continue to expand and develop service to assist missing and exploited youth and their families in Addison County, Vermont. Project activities include community education programs on child safety issues, counseling, outreach and safe shelter services for runaway and thrownaway youth, training for law enforcement officers, and crisis counseling for families of missing children.

ECHO Program Expansion: Exploited Children's Help Organization Up to $19,538

The purpose of this project is to enable the Exploited Children's Help Organization (ECHO) to expand existing services to missing and exploited children and their families. These services include community education and prevention, a quarterly newsletter providing information about missing and exploited children and the services available through ECHO, a parents support program, and the "Kids in Court" program. In cooperation with local police, ECHO will compile information about repeat runaways in order to develop a community runaway prevention program.

Project Nino Seguro: South Bay Community Services Up to $45,258

This project serves both the English speaking and Spanish speaking communities by providing education, information, and services to parents, children, and the community designed to reduce the occurrence of missing, abducted and exploited children. Project Nino Seguro provides direct counseling to individuals, families, and peer units.

Reunification Services Project: Find the Children Up to $30,000

The purpose of this project is to support Find the Children's activities and responsibilities as coordinators of a local multi-agency task force designed to be activated upon the recovery of a child. Find the Children coordinates interagency communication to evaluate a child's or family's needs at the time of recovery, assists them in obtaining access to available services, collects data, manages relevant treatment-intervention plans, and reports in conjunction with the Inter-Agency Council of Child Abuse and Neglect.

Prevention and Early Intervention and Mediation Project: Our Town Family Center Up to $75,000

The purpose of this project is to enhance the range of services to missing, exploited, and abused children and their families. These services include a school based prevention program and home-based crisis intervention services. In addition, a new family mediation dispute resolution program seeks to reduce the negative impact of high conflict divorce and separation on children. The project will also provide training workshops for local juvenile justice and school personnel.

Community Action for Prevention of Missing and Exploited Children: Center for Child Protection and Family Support, Inc. Up to $75,000

This project enables the Center for Child Protection and Family Support in Washington, DC, to expand its direct service activities to high-risk inner city youth, specifically teenaged parents, through the development of a specialized education component designed to educate families on child safety, enhance their understanding of potential abduction and exploitation, and improve the systemic response to dealing with the issues of missing and exploited children. Project activities include direct family support, structured community-based education and agency collaboration with other youth serving organizations which are involved with

missing and exploited children. This project will also develop a specialized prevention curriculum targeting urban and ethnic minority children and parents.

Prevention and Intervention Program: Paul & Lisa, Inc. Up to $75,000

This project expands Paul & Lisa's school-based exploitation prevention program in Connecticut, New York, and New Jersey. Project activities include helping children develop ways to handle and discourage sexual advances, abduction, and exploitation by adults as well as providing school personnel and service providers with strategies for preventing and dealing with missing and exploited children. Training and technical assistance to organizations and coalitions in selected cities will also be provided.

Vanished Children's Alliance Up to $70,500

This project enhances the capacity of Vanished Children's Alliance to provide effective and timely direct services to individuals, families, and communities impacted by missing and exploited children issues. Project activities focus on strengthening case management capacities, computerizing information system, providing specialized training for staff persons, and expanding counseling services and technical assistance to families following recovery of a missing child.

Gerald P. Regier,

Acting Administrator, Office of Juvenile Justice and, Delinquency Prevention.

Randall P. K. Davis,

Acting General Counsel, Office of Justice Programs.

[FR Doc. 92-27919 Filed 11-17-92; 8:45 am]

BILLING CODE 4410-18-M

federal register

Wednesday
November 18, 1992

Part VI

Department of the Interior

Bureau of Indian Affairs

Small Tribes Grant Program; Notice

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Small Tribes Grant Program

November 10, 1992.

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of availability of discretionary grant funds for small federally recognized Indian tribes.

SUMMARY: The Bureau of Indian Affairs invites applications from small Indian tribes within the contiguous 48 United States and Alaska, population 1500 or less Indian people residing on or near the applicant tribe's reservation or community, for a grant program. The purpose of this grant program is to permit small tribes to improve their capabilities to manage and administer tribal governmental affairs as well as federal and tribal programs. Grant awards will be made on a competitive basis under criteria, terms, and conditions set forth in this announcement. Grants awarded under this announcement are authorized by section 103 of the Indian Self-Determination and Education Assistance Act of 1975, Public Law 93-638, as amended by Public Law 100-472, Public Law 101-301 and Public Law 101-644. This notice is published in exercise of the authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM 8.I.

DATES: The closing date for submission of applications under this announcement is January 19, 1993.

ADDRESSES: Applications should be sent to the appropriate Bureau of Indian Affairs Area Office listed below.

Aberdeen Area Office

Diane Turgeon, 115 4th Avenue, SE., Aberdeen, SD 57401-4382, Telephone: (605) 226-7426

Albuquerque Area Office

Karen Foster, 615 1st Street, NW., Box 26567, Albuquerque, NM 87125-6567, Telephone: (505) 766-3172 or 766-2559

Minneapolis Area Office

Stuart Mani, 331 South 2d Avenue, Minneapolis, MN 55401-2241, Telephone: (612) 373-1031

Muskogee Area Office

Edward L. Lowery, 5th & West Okmulgee, Muskogee, OK 74401-4898, Telephone: (918) 687-2447

Anadarko Area Office

Terry Bruner, WCD Office Complex, Box 368, Anadarko, OK 73005-0368, Telephone: (405) 247-6673 ext. 209

Portland Area Office

Timothy R. Brown, 911 NE. 11th Avenue, Portland, OR 97232-4169, Telephone: (503) 231-6702

Sacramento Area Office

Joan Burcell, 2800 Cottage Way, Sacramento, CA 95825-1884, Telephone: (916) 978-4690

Phoenix Area Office

Wilson Gillette, P.O. Box 10, Phoenix, AZ 85001-0010, Telephone: (602) 379-6760

Eastern Area Office

Larry Blair, 3701 N. Fairfax Dr. MS-260-VA-SQ, Arlington, VA 22203, Telephone: (703) 235-2443

Juneau Area Office

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SUPPLEMENTARY INFORMATION:

A. Purpose of the Grant Program.

The purpose of this grant program is to provide financial support to enable small Indian tribes to meet the administrative needs necessary to develop, improve, and/or maintain tribal government functions as well as tribal service delivery systems. To accomplish this purpose, the Bureau of Indian Affairs announces the availability of up to $2.312 Million for a small tribes grant program which is more responsive to the needs of small Indian tribes. The program is designed to meet the needs of three (3) categories of small tribes, as follows:

(1) Development Component

This program component is for small Indian tribes without basic management systems and without experience operating under such systems; small Indian tribes not heretofore contracting or applying for grants; tribes or villages in consortia which want to contract or receive grants on their own;

(2) Basic Small Tribes Component

This program component is for small Indian tribes experiencing problems operating programs and operating properly under basic management systems (this is the basic Core Management type program component);

(3) Expansion/Enhancement Component

This program component is for small Indian tribes which, for the most part, have eliminated their administrative and management problems and want to plan for the expansion or the enhancement of governmental functions as well as for the expansion or enhancement of service delivery systems but do not have the capability or the resources to do so.

B. Eligibility Criteria

(1) Development Component

Small tribes applying for a grant under this component shall meet the following criteria:

(a) Only the governing body of a small Indian tribe may apply for, or authorize a multi-tribal organization to apply for, a grant under this announcement;

(b) Only a federally recognized Indian tribe with a population of 1500 or less who resides on or near the applicant tribe's reservation or community and has a leadership empowered under the tribe's system of government to act on behalf of the tribe may apply for a grant under this announcement.

(c) In addition to the basic eligibility criteria in (a) and (b), above, to be eligible for a grant under this component a tribe must satisfy at least three (3) of the following:

(i) Have an active tribal government;

(ii) Have a tribal office;

(iii) Lack financial resources to meet its core administrative or management needs;

(iv) Have inadequate or ineffective management systems.

(2) Basic Small Tribes Component—

Small tribes applying for a grant under this component shall meet all of the following criteria:

(a) Only the governing body of a small Indian tribe may apply for, or authorize a multi-tribal organization to apply for, a grant under this announcement;

(b) Only a federally recognized Indian tribe with a population of 1500 or less who resides on or near the applicant tribe's reservation or community and has a leadership empowered under the tribe's system of government to act on behalf of the tribe may apply for a grant under this announcement.

(c) The tribe must lack financial resources to meet its core administrative or management needs.

(d) The tribe must have inadequate management systems, or problems operating thereunder.

(3) Expansion/Enhancement Component—

Small tribes applying for a grant under this component shall meet all of the following criteria:

(a) Only the governing body of a small Indian tribe may apply for, or authorize

a multi-tribal organization to apply for, a grant under this announcement;

(b) Only a federally recognized Indian tribe with a population of 1500 or less who resides on or near the applicant tribe's reservation or community and has a leadership empowered under the tribe's system of government to act on behalf of the tribe may apply for a grant under this announcement.

(c) In addition to the basic eligibility criteria in (a) and (b), above, tribes applying for a grant under this component must provide a copy of their current organization-wide Single Audit Report prepared in accordance with the Single Audit Act of 1984 (Pub. L. 98–502), as implemented through OMB Circular A–128. Such audit report must be free of any significant or material weaknesses.

C. Content of Application

(1) Applicants for a grant in response to this announcement shall follow the application requirements set forth in Office of Management and Budget Circular A–102, Uniform Requirements for Assistance to State and Local Governments (ne Common Rule), and as implemented within the Department of the Interior in 43 CFR part 12. Under part.IV of Standard Form 424, Program Narrative Statement, applicants shall provide the following:

(a) Development Component

(i) In addition to the basic eligibility criteria in section B(l), above, tribal applicants must provide a statement of specific needs or problems to be addressed under the proposed grants which may include, but not be limited to, the following:

(A) Staff
—Tribal Administrator
—Clerical/Bookkeeper
(B) Training of Tribal Officials and Staff
(C) Management Systems/Includes Certification
(D) Funds to cover office costs, such as:
—Supplies
—Equipment/Furniture
—Telephone
—Utilities
—Space
—Postage

(ii) A description of how the grant funds will be used to overcome the problems or meet the needs which have been identified.

(iii) A schedule for the start and projected completion dates for actions or efforts to be taken to resolve problems or meet needs identified under the proposed grants.

(iv) A description of the personnel required, if any, to carry out grant activities and/or objective; also provide position descriptions which include qualifications for education and experience.

(v) A detailed description of how grant funds will be used, if applicable, in coordination with, or to supplement, grants and/or contracts or funds from other agencies.

(vi) A budget justification which indicates how grant funds will be used to carry out the actions or efforts and achieve the goals and objectives of the proposed grant.

(b) Basic Small Tribes Component

(i) In addition to the basic eligibility criteria in section B(2), above, to be eligible to receive a grant under this component a tribe must furnish documents such as audits, reports, and correspondence which indicate difficulties in the performance of federal and State grants, programs and contracts, examples include, but are not limited to, the following:

(A) Current audit report indicates serious financial management problems;

(B) Delinquency in making progress or financial status reports;

(C) Failure to close-out program grants or contracts which are no longer in operation;

(D) Problems in achieving current or past grant or contract program goals or objectives.

(ii) Tribal applicants may propose to meet their respective core administrative or management needs in a variety of ways. Tribes must provide a statement of specific needs or problems to be addressed under the proposed grant which may include, but not be limited to, the following:

(A) Employ an administrator and/or necessary support staff;

(B) Employ a bookkeeper;

(C) Hire a "Circuit Rider" accountant, administrator, planner and/or other key staff position to meet the needs of a multi-tribal consortium;

(D) Employ staff to address specific managerial problems under a one-time only grant;

(E) Retain an accountant to prepare for the conduct of annual independent audits and/or to correct current or past audit deficiencies.

(iii) A statement of specific needs and/or problems to be addressed under the proposed grants.

(iv) A description of how the grant funds will be used to overcome the problems or meet the needs which have been identified.

(v) A schedule for the start and projected completion dates for actions or efforts to be taken to resolve problems or meet needs identified under the proposed grants.

(vi) A description of the personnel required, if any, to carry out grant activities and/or objectives; also provide position descriptions which include qualifications for education and experience.

(vii) A detailed description of how grant funds will be used, if applicable, in coordination with, or to supplement, grants and/or contracts or funds from other agencies.

(viii) A budget justification which indicates how grant funds will be used to carry out the actions or efforts and achieve the goals and objectives of the proposed grant.

(c) Expansion/Enhancement Component

(i) Tribal applicants may propose to meet their respective expansion or enhancement needs in a variety of ways. Such grants may be used by a tribe to centralize or consolidate all of its administrative functions, to consolidate or integrate federal programs serving the tribe as well as formulate short and long range plans for tribal governmental development including enhancing a tribes ability to exercise it's authority.

(ii) Expansion/enhancement grants permit, but are not limited to, the following:

(A) Monitor, evaluate, plan and design or redesign federal programs serving the tribe;

(B) Assume more control over programs designed to serve tribal populations, diminishing federal domination over programs serving Indians;

(C) To assist tribes in their efforts to reduce dependence on federal grants or contracts for services, income, and employment opportunities.

(iii) A work statement of how the applicant will accomplish the goals and objectives under the proposed grant.

(iv) A description of how the grant funds will be used to meet the goals and objectives identified under the proposed grant.

(v) A schedule for the start and projected completion dates for actions or efforts to be taken to meet the goals and objectives identified under the proposed grant.

(vi) A description of the personnel required, if any, to carry out grant activities and/or objectives, also provide position descriptions which include qualifications for education and experience.

(vii) A detailed description of how grant funds will be used, if applicable, in coordination with, or to supplement, grants and/or contracts or funds from other agencies.

(viii) A budget justification which indicates how grant funds will be used to carry out the actions or efforts and achieve the goals and objectives of the proposed grant.

(2) The applicant must indicate how other available resources such as tribal income, other Bureau grants or capacity building grants from other agencies will be committed to complement or support this effort.

(3) The applicant must make a written commitment to incorporate and maintain the positive results expected from the grant and to maintain sound management systems.

(4) The applicant must certify that no elected tribal official will receive a salary or any other form of compensation from a grant under this announcement.

(5) If a tribe's application is prepared by an outside consultant, the application must indicate the role of the grant preparer to the tribe during the grant period; e.g., will the preparer be funded through the proceeds of the grant as a consultant, full time employee, part time employee, etc.

(6) The grantee must agree in its application to submit quarterly financial status and progress reports;

(7) Progress and accomplishment reports for a prior year grant must be submitted with an application for a continuation grant. Reports will be used in the rating of continuation grant applications, appropriations permitting, since subsequent grants will include performance as a criteria for grant renewal.

(8) The applicant must complete a Certification Regarding Drug-Free Workplace Requirements.

(9) The grant funds awarded under this announcement may be used as matching shares for any other federal or non-federal grant programs which contribute to the purposes for which these grants are made.

D. Application Review and Rating

Applications submitted in response to this announcement will be received and rated as follows:

(1) Agency Office Responsibility

Applications shall initially be submitted to the appropriate Agency Superintendent for review and comment, with a recommendation to approve or disapprove the application to insure that the application is consistent with the conditions set forth in Sections A, B, and C of this announcement. The Superintendent upon receipt of the application shall:

(a) Acknowledge in writing receipt of the application within five (5) calendar days of its arrival at the Agency Office.

(b) Review the application for completion of information and, within ten (10) calendar days, request any additional information which may be required to conduct a review of the application.

(c) If the application is sufficiently complete, forward it to the Area Director with comments and recommendations to approve or disapprove within fifteen (15) calendar days.

(d) In instances where disapproval of an application is recommended, the Superintendent shall provide detailed reasons for the recommendation.

(2) Area Office Responsibility

Upon receipt of the application the Area Director shall:

(a) Within fifteen (15) calendar days, conduct a review of each application for consistency with sections A, B, and C of this announcement, in this review the Area Director shall utilize the comments and recommendations from the Agency Superintendent.

(b) Upon completion of the application review process the Area Director shall rate each application based on the criteria set forth in Sections A, B, and C of this announcement in accord with the following guidelines:

(i) Developmental Component

(A) Criteria—the applicant can document or demonstrate it satisfies 3 or more of the needs contained in section B(1).
Points: _____ (0–35)

(B) Work Statement—the application work plan describes in detail how it will satisfy the goals and objectives of the proposed grant. The work plan contains a schedule of activities, which if executed properly will accomplish the goals and objectives of the proposed grant.
Points: _____ (0–35)

(C) Budget justification—the application contains a line item budget with a separate narrative explaining each cost item and how such costs are reasonable.
Points: _____ (0–10)

(D) Management or Self-Monitoring System—the application indicates how the grantee will monitor progress in achieving grant objectives and how corrective action will be taken, if necessary.
Points: _____ (0–10)

(ii) Basic Small Tribes Component

(A) Purpose—applications most consistent with the purpose of this component of the program will receive higher ratings than those which are for the purpose of purchasing professional expertise or equipment. An application for staff with a sound position description would rate higher than one used to hire a consultant since a good staff person will enable the grantee to meet the grant objectives on a more permanent basis.
Points: _____ (0–10)

(B) Need/Problem Statement—the applicant can document or demonstrate it satisfies all of the criteria contained in section B(2).
Points: _____ (0–30)

(C) Work Statement—the application work plan describes in detail how it will meet the needs or overcome problems cited in (B), above. The work plan contains a schedule of activities, which if executed properly will accomplish the objectives and goals of the proposed grant.
Points: _____ (0–35)

(D) Budget Justification—the application contains a line item budget with a separate narrative explaining each cost item and how such costs are reasonable.
Points: _____ (0–10)

(E) Management or Self-Monitoring System—the application indicates how the grantee will monitor progress in achieving objectives and how corrective action will be taken, if necessary.
Points: _____ (0–15)

(iii) Expansion/Enhancement Component

(A) Purpose—applications most consistent with the purpose of this component of the program will receive higher ratings than those which are for the purpose of purchasing professional expertise or equipment.
Points: _____ (0–20)

(B) Rationale or Justification Statement—the applicant can document or demonstrate it satisfies all of the criteria contained in section B(3).
Points: _____ (0–25)

(C) Work Statement—the application work plan describes in detail how it will meet the needs or overcome problems cited in (B), above. The work plan contains a schedule of activities, which if executed properly will accomplish the objectives and goals of the proposed grant.
Points: _____ (0–30)

(D) Budget Justification—the application contains a line item budget with a separate narrative explaining each cost item and how such costs are reasonable.
Points: _____ (0–15)
(E) Management or Self-Monitoring System—the application indicates how the grantee will monitor progress in achieving grant objectives and how corrective action will be taken, if necessary.
Points: _____ (0–10)

(c) Upon completion of the application review and rating process the Area Director shall, within fifteen (15) calendar days, initiate one of the following actions:

(i) Approve the application for funding based on the Superintendent's recommendation and the Area Office review and rating process.

(ii) Disapprove the application based on the Area Office review and rating process. Notify the applicant by explanatory letter of the decision to disapprove the application, advising the applicant of its appeal rights.

E. Other Conditions

(1) Appeals from administrative decisions made by the Bureau of Indian Affairs shall be made under provisions as set forth in 25 CFR part 2. Send appeals to the appropriate Area Office. The Area Office will forward the appeals to: Office of Hearings and Appeals, 4015 Wilson Boulevard, MS–1103, Ballston Tower No. 3, Arlington, VA 22203. Attention Chief Administrative Judge Kathryn A. Lynn, Board of Indian Appeals.

(2) Unresponsive applications will not be reviewed or rated, and there shall be no appeal rights for non-funding of such applications. An unresponsive application is an application without a current tribal counsel or governing body resolution; an application requesting a grant where the anticipated grant outcomes have no relationship to the purposes of these grants; e.g., to fund and/or augment the funding of a wildlife and parks program grant, etc.

(3) Applicants should submit an original and two copies of their applications.

(4) No indirect cost funds shall be provided for grants under this announcement.

(5) Tribal applicants may request grant funds up to a maximum of $35,000.

F. Submission of Applications.

Applications submitted in response to this announcement must be:

(1) Postmarked no later than midnight January 19, 1993, if mailed;

(2) Received in the Agency office no later than the close of business January 19, 1993, if hand delivered. Send appeals to the appropriate Area Office.

David J. Matheson,

Acting Assistant Secretary—Indian Affairs.

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A cumulative list of Public Laws for the second session of the 102d Congress will be published in Part II of the **Federal Register** on November 23, 1992.

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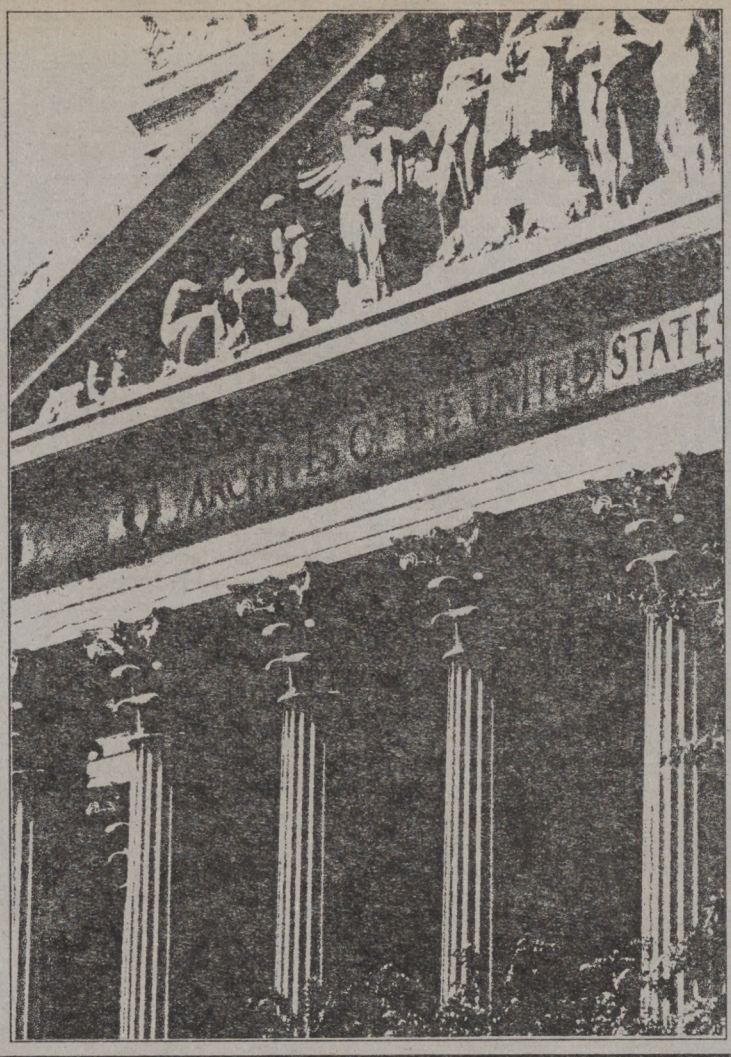

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