AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

1–27–93
Vol. 58 No. 16

federal register

Wednesday
January 27, 1993

United States
Government
Printing Office
SUPERINTENDENT
OF DOCUMENTS
Washington, DC 20402

OFFICIAL BUSINESS
Penalty for private use, $300

SECOND CLASS NEWSPAPER

Postage and Fees Paid
U.S. Government Printing Office
(ISSN 0097–6326)

1-27-93
Vol. 58 No. 16
Pages 6187-6342

federal register

Wednesday
January 27, 1993

Briefing on How To Use the Federal Register
For information on a briefing in Washington, DC, see announcement on the inside cover of this issue.

FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Administration, Washington, DC 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

The **Federal Register** provides a uniform system for making available to the public regulations and legal notices issued by Federal agencies. These include Presidential proclamations and Executive Orders and Federal agency documents having general applicability and legal effect, documents required to be published by act of Congress and other Federal agency documents of public interest. Documents are on file for public inspection in the Office of the Federal Register the day before they are published, unless earlier filing is requested by the issuing agency.

The seal of the National Archives and Records Administration authenticates this issue of the **Federal Register** as the official serial publication established under the Federal Register Act. 44 U.S.C. 1507 provides that the contents of the **Federal Register** shall be judicially noticed.

The **Federal Register** is published in paper, 24x microfiche format and magnetic tape. The annual subscription price for the **Federal Register** paper edition is $375, or $415 for a combined **Federal Register**, Federal Register Index and List of CFR Sections Affected (LSA) subscription; the microfiche edition of the **Federal Register** including the Federal Register Index and LSA is $353; and magnetic tape is $37,500. Six month subscriptions are available for one-half the annual rate. The charge for individual copies in paper form is $4.50 for each issue, or $4.50 for each group of pages as actually bound; or $1.50 for each issue in microfiche form; or $175.00 per magnetic tape. All prices include regular domestic postage and handling. International customers please add 25% for foreign handling. Remit check or money order, made payable to the Superintendent of Documents, or charge to your GPO Deposit Account, VISA or MasterCard. Mail to: New Orders, Superintendent of Documents, P.O. Box 371954, Pittsburgh, PA 15250–7954.

There are no restrictions on the republication of material appearing in the **Federal Register.**

How To Cite This Publication: Use the volume number and the page number. Example: 58 FR 12345.

SUBSCRIPTIONS AND COPIES

PUBLIC

Subscriptions:

Paper or fiche	202–783–3238
Magnetic tapes	512–1530
Problems with public subscriptions	512–2303

Single copies/back copies:

Paper or fiche	783–3238
Magnetic tapes	512–1530
Problems with public single copies	512–2457

FEDERAL AGENCIES

Subscriptions:

Paper or fiche	523–5243
Magnetic tapes	512–1530
Problems with Federal agency subscriptions	523–5243

For other telephone numbers, see the Reader Aids section at the end of this issue.

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.

WASHINGTON, DC

WHEN: February 2 and March 5 at 9:00 a.m.

WHERE: Office of the Federal Register, 7th Floor Conference Room, 800 North Capitol Street NW, Washington, DC

RESERVATIONS: 202–523–4538

Printed on recycled paper containing 100% post consumer waste

Contents

Federal Register

Vol. 58, No. 16

Wednesday, January 27, 1993

Agricultural Stabilization and Conservation Service
NOTICES
Feed grain donations:
Blackfeet Tribe of Blackfeet Indian Reservation, MT, 6202

Agriculture Department
See Agricultural Stabilization and Conservation Service
See Commodity Credit Corporation
See Food and Nutrition Service

Antitrust Division
NOTICES
Competitive impact statements and proposed consent judgments:
Cookson Group, PLC, et al., 6298

Arts and Humanities, National Foundation
See National Foundation on the Arts and the Humanities

Centers for Disease Control and Prevention
NOTICES
Meetings:
Clinical Laboratory Improvement Advisory Committee, 6284

Commerce Department
See International Trade Administration
See National Oceanic and Atmospheric Administration

Committee for the Implementation of Textile Agreements
NOTICES
Cotton, wool, and man-made textiles:
Brazil, 6248
El Salvador, 6249

Commodity Credit Corporation
NOTICES
Feed grain donations:
Blackfeet Tribe of Blackfeet Indian Reservation, MT, 6202

Commodity Futures Trading Commission
NOTICES
Energy products; exemption for certain contracts, 6250

Defense Department
NOTICES
Civilian health and medical program of uniformed services (CHAMPUS):
Rate revision, 6254

Defense Nuclear Facilities Safety Board
NOTICES
Meetings; Sunshine Act, 6335

Drug Enforcement Administration
NOTICES
Applications, hearings, determinations, etc.:
Minn-Dak Growers Ltd., 6313

Education Department
NOTICES
Educational research and improvement:
Educationally at-risk students; comment solicitation, 6267
Grants and cooperative agreements; availability, etc.:
Fund for innovation in education—
Innovation in education program, 6267
Meetings:
Education Statistics Advisory Council, 6267

Energy Department
See Federal Energy Regulatory Commission
NOTICES
Environmental statements; availability, etc.:
Lawrence Livermore National Laboratory/Sandia National Laboratory, Livermore, CA, 6268
Floodplain and wetlands protection; environmental review determinations; availability, etc.:
Rocky Flats Plant, CO, 6273
Natural gas exportation and importation:
AGE Marketing Co., 6279

Environmental Protection Agency
PROPOSED RULES
Air programs:
Architectural and Industrial Maintenance Coatings Negotiated Rulemaking Advisory Committee; meetings, 6200
NOTICES
Toxic and hazardous substances control:
Premanufacture notices receipts, 6280

Executive Office of the President
See Presidential Documents
See Trade Representative, Office of United States

Farm Credit Administration
NOTICES
Meetings; Sunshine Act, 6335

Federal Aviation Administration
RULES
Airworthiness directives:
Pratt & Whitney, 6191
PROPOSED RULES
Airworthiness directives:
Boeing, 6198
NOTICES
Exemption petitions; summary and disposition, 6321
Meetings:
Aviation Rulemaking Advisory Committee, 6322
Passenger facility charges; applications, etc.:
Medford-Jackson County Airport, OR, 6323

Federal Communications Commission
RULES
Radio stations; table of assignments:
New York, 6193
Wisconsin, 6193
PROPOSED RULES
Radio stations; table of assignments:
Maryland, 6201

Minnesota, 6201
NOTICES
Agency information collection activities under OMB review, 6282
International accounting rates:
Benchmark settlement rates for Europe, Asia, and other regions, 6282

Federal Energy Regulatory Commission
NOTICES
Electric rate, small power production, and interlocking directorate filings, etc.:
Massachusetts REFUSETECH, Inc., et al., 6274
Natural gas certificate filings:
Arkla Energy Resources et al., 6276
Natural Gas Policy Act:
State jurisdictional agencies tight formation recommendations; preliminary findings—
Texas Railroad Commission, 6278
Wyoming Oil and Gas Conservation Commission, 6278
Applications, hearings, determinations, etc.:
Central Maine Power Co. et al., 6278
El Paso Natural Gas Co., 6279
Northwest Pipeline Corp., 6279
Odgen Haverhill Associates, 6279

Federal Highway Administration
NOTICES
Environmental statements; notice of intent:
Flathead County, MT, 6323

Federal Maritime Commission
NOTICES
Agreements filed, etc., 6283

Federal Reserve System
NOTICES
Meetings; Sunshine Act, 6335
Applications, hearings, determinations, etc.:
Alpha-Omega Holding Co., 6283
BB&T Financial Corp. et al., 6284
Montgomery, Dudley K., 6284

Food and Drug Administration
NOTICES
Animal drugs, feeds, and related products:
Export applications—
Interceptor (milbemycin oxime) dye-free tablets for dogs, 6284
Human drugs:
Patent extension; regulatory review period determinations—
Accupril, etc.; correction, 6285

Food and Nutrition Service
NOTICES
Meetings:
Commodity Distribution National Advisory Council, 6202

Health and Human Services Department
See Centers for Disease Control and Prevention
See Food and Drug Administration
See National Institutes of Health
See Public Health Service

Health Resources and Services Administration
See Public Health Service

Housing and Urban Development Department
NOTICES
Grants and cooperative agreements; availability, etc.:
HOME investment partnerships program—
Formula allocations (1993 FY), 6289

Interior Department
See Land Management Bureau
See National Park Service

International Trade Administration
NOTICES
Antidumping:
Hot-rolled lead and bismuth carbon steel products from—
Brazil, 6202
France, 6203
Germany, 6205
United Kingdom, 6207
Sulfur dyes, including sulfur vat dyes, from—
India, 6212
Countervailing duties:
Acetylsalicylic acid (aspirin) from Turkey, 6213
Hot-rolled lead and bismuth carbon steel products from—
Brazil, 6213
France, 6221
Germany, 6233
United Kingdom, 6237
Pig iron from Brazil, 6246

International Trade Commission
NOTICES
Import investigations:
Defrost timers from Japan, 6296
Static random access memories, components, and products containing same, 6296

Interstate Commerce Commission
NOTICES
Motor carrier:
Compensated intercorporate hauling operations, 6297
Railroad services abandonment:
Visalia Electric Railroad Co., 6297

Justice Department
See Antitrust Division
See Drug Enforcement Administration
NOTICES
Pollution control; consent judgments:
Cooper Industries, Inc., et al., 6297
Marathon Battery Co. et al., 6298
Seattle, WA, 6298

Land Management Bureau
NOTICES
Meetings:
California Desert District Grazing Advisory Board, 6294
Opening of public lands:
Oregon; correction, 6336
Washington; correction, 6336
Realty actions; sales, leases, etc.:
Idaho, 6294

National Aeronautics and Space Administration
NOTICES
Patent licenses; non-exclusive, exclusive, or partially exclusive:
Shinko Boeki Co., Ltd., 6313

National Commission on Manufactured Housing
NOTICES
Meetings, 6314

National Foundation on the Arts and the Humanities
NOTICES
Meetings:
Humanities Panel, 6314

National Institutes of Health
NOTICES
Meetings:
National Cancer Institute, 6287
National Institute of Mental Health, 6287
Patent licenses; non-exclusive, exclusive, or partially exclusive:
Alpha platelet-derived growth factor (PDGF) receptor gene, 6287

National Oceanic and Atmospheric Administration
NOTICES
Coastal zone management programs and estuarine sanctuaries:
Consistency appeals—
Virginia Electric & Power Co., 6247
Permits:
Marine mammals, 6248

National Park Service
NOTICES
Cuyahoga Valley National Recreation Area, OH; sale of lands, 6294
Meetings:
Mississippi River Coordinating Commission, 6295
Native american human remains and associated funerary objects:
Gunther Island, CA; inventory, 6295

Nuclear Regulatory Commission
PROPOSED RULES
Requirements marginal to safety; elimination
Public workshop, 6196
NOTICES
Abnormal occurrence reports:
Periodic reports to Congress, 6314
Agency information collection activities under OMB review, 6314
Meetings:
Nuclear Waste Advisory Committee, 6315
Reactor Safeguards Advisory Committee, 6315

Office of United States Trade Representative
See Trade Representative, Office of United States

Presidential Documents
PROCLAMATIONS
Special observances:
Marshall, Thurgood; death of (Proc. 6526), 6187
EXECUTIVE ORDERS
Council; establishment, renewal, termination, etc.:
Economic Council, National; establishment (EO 12835), 6189
ADMINISTRATIVE ORDERS
Arms Control and Disarmament Agency 1992 annual activity report; authority delegation (Memorandum of January 15, 1993), 6339
Tajikistan; refugee assistance (Presidential Determination No. 93–14 of January 19, 1993), 6341

Public Health Service
See Centers for Disease Control and Prevention
See Food and Drug Administration
See National Institutes of Health
NOTICES
Organization, functions, and authority delegations:
National Institutes of Health, 6288

Securities and Exchange Commission
NOTICES
Self-regulatory organizations; proposed rule changes:
Midwest Securities Trust Co., 6318
National Securities Clearing Corp., 6319
Participants Trust Co., 6319

Textile Agreements Implementation Committee
See Committee for the Implementation of Textile Agreements

Trade Representative, Office of United States
NOTICES
Committees; establishment, renewal, termination, etc.:
Ultra-high temperature (UHT) milk import restrictions, dispute settlement panel, 6316
Unfair trade practices, petitions, etc.:
Extruded rubber thread imports; Presidential decision, 6317
United States-Canada Free-Trade Agreement:
Non-wool fabrics and made-up goods; tariff rate quotas extension, 6317

Transportation Department
See Federal Aviation Administration
See Federal Highway Administration
RULES
Organization, functions, and authority delegations:
Commandant, Coast Guard, et al., 6193

Treasury Department
NOTICES
Notes, Treasury:
J–1998 series, 6328
S–1995 series, 6331
Organization, functions, and authority delegations:
Assistant Secretary (Enforcement) et al., 6324
Assistant Secretary (Management)/Chief Financial Officer et al., 6326, 6327

Separate Parts In This Issue

Part II
The President, 6337

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

Electronic Bulletin Board
Free Electronic Bulletin Board service for Public Law Numbers and Federal Register finding aids is available on 202–275–1538 or 275–0920.

CFR PARTS AFFECTED IN THIS ISSUE

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

3 CFR

Proclamations:
6526.....6167

Executive Orders:
12835.....6189

Administrative Orders:

Memorandums:
January 15, 1993.....6339

Administrative Orders:

Presidential Determinations:
No. 93–14 of
January 19, 1993.....6341

10 CFR

Proposed Rules:
Ch. I.....6196

14 CFR
39.....6191

Proposed Rules:
39.....6198

40 CFR

Proposed Rules:
Ch. I.....6200

47 CFR
73 (2 documents).....6193

Proposed Rules:
73 (2 documents).....6201

49 CFR
1.....6193

Federal Register
Vol. 58, No. 16
Wednesday, January 27, 1993

Presidential Documents

Title 3—

The President

Proclamation 6525 of January 24, 1993

Death of Thurgood Marshall

By the President of the United States of America

A Proclamation

Thurgood Marshall, an African-American born and reared in segregated America, was a fundamental force of change in this Nation. Perhaps no other American lawyer has had more impact on the current meaning and content of the U.S. Constitution. As the leading attorney for the N.A.A.C.P. Legal Defense and Education Fund, Justice Marshall's twenty-nine victories before the U.S. Supreme Court breathed life into the text of the Fourteenth Amendment and guaranteed all Americans equality and liberty in their individual choices concerning voting, housing, education, and travel. As an appeals court judge, the Solicitor General of the United States and, finally, Supreme Court Justice, he worked tirelessly to expand and protect his vision of justice for America. As our Nation begins to chart its course for the next century, it is fitting that we pause to honor and remember the courageous, purposeful life of Thurgood Marshall.

As a mark of respect for the memory of Thurgood Marshall, former Associate Justice of the Supreme Court of the United States, I hereby order by the authority vested in me as President of the United States of America by section 175 of title 36 of the United States Code, that the flag of the United States shall be flown at half-staff upon all public buildings and grounds, at all military posts and naval stations, and on all naval vessels of the Federal Government in the District of Columbia and throughout the United States and its Territories and Possessions until his interment. I also direct that the flag shall be flown at half-staff for the same length of time at all United States embassies, legations, consular offices, and other facilities abroad, including all military facilities and naval vessels and stations.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-fourth day of January, in the year of our Lord nineteen hundred and ninety-three, and of the Independence of the United States of America the two hundred and seventeenth.

William J. Clinton

[FR Doc. 93–2095
Filed 1–25–93; 1:45 pm]
Billing code 3195–01–M

Editorial note: For the President's statement on the death of Thurgood Marshall, see issue 4 of the *Weekly Compilation of Presidential Documents.*

Presidential Documents

Executive Order 12835 of January 25, 1993

Establishment of the National Economic Council

By the authority vested in me as President of the United States by the Constitution and the laws of the United States of America, including sections 105, 107, and 301 of title 3, United States Code, it is hereby ordered as follows:

Section 1. *Establishment.* There is established the National Economic Council ("the Council").

Sec. 2. *Membership.* The Council shall comprise the:

(a) President, who shall serve as Chairman of the Council;
(b) Vice President;
(c) Secretary of State;
(d) Secretary of the Treasury;
(e) Secretary of Agriculture;
(f) Secretary of Commerce;
(g) Secretary of Labor;
(h) Secretary of Housing and Urban Development;
(i) Secretary of Transportation;
(j) Secretary of Energy;
(k) Administrator of the Environmental Protection Agency;
(l) Chair of the Council of Economic Advisers;
(m) Director of the Office of Management and Budget;
(n) United States Trade Representative;
(o) Assistant to the President for Economic Policy;
(p) Assistant to the President for Domestic Policy;
(q) National Security Adviser;
(r) Assistant to the President for Science and Technology Policy; and
(s) Such other officials of executive departments and agencies as the President may, from time to time, designate.

Sec. 3. *Meetings of the Council.* The President, or upon his direction, the Assistant to the President for Economic Policy ("the Assistant"), may convene meetings of the Council. The President shall preside over the meetings of the Council, provided that in his absence the Vice President, and in his absence the Assistant, will preside.

Sec. 4. *Functions.* (a) The principal functions of the Council are: (1) to coordinate the economic policy-making process with respect to domestic and international economic issues; (2) to coordinate economic policy advice to the President; (3) to ensure that economic policy decisions and programs are consistent with the President's stated goals, and to ensure that those goals are being effectively pursued; and (4) to monitor implementation of the President's economic policy agenda. The Assistant may take such actions, including drafting a Charter, as may be necessary or appropriate to implement such functions.

(b) All executive departments and agencies, whether or not represented on the Council, shall coordinate economic policy through the Council.

(c) In performing the foregoing functions, the Assistant will, when appropriate, work in conjunction with the Assistant to the President for Domestic Policy and the Assistant to the President for National Security.

(d) The Secretary of the Treasury will continue to be the senior economic official in the executive branch and the President's chief economic spokesperson. The Director of the Office of Management and Budget, as the President's principal budget spokesperson, will continue to be the senior budget official in the executive branch. The Council of Economic Advisers will continue its traditional analytic, forecasting and advisory functions.

Sec. 5. *Administration.* (a) The Council may function through established or ad hoc committees, task forces or interagency groups.

(b) The Council shall have a staff to be headed by the Assistant to the President for Economic Policy. The Council shall have such staff and other assistance as may be necessary to carry out the provisions of this order.

(c) All executive departments and agencies shall cooperate with the Council and provide such assistance, information, and advice to the Council as the Council may request, to the extent permitted by law.

William J. Clinton

THE WHITE HOUSE,
January 25, 1993.

[FR Doc. 93–2102
Filed 1–25–93; 2:07 pm]
Billing code 3195–01–M

Editorial note: For the President's remarks on the establishment of this economic council see issue 4 of the *Weekly Compilation of Presidential Documents.*

Rules and Regulations

Federal Register
Vol. 58, No. 16
Wednesday, January 27, 1993

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. 91–ANE–41; Amendment 39–8387; AD 92–22–01]

Airworthiness Directives; Pratt & Whitney Canada PW100 Series Turboprop Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to Pratt & Whitney Canada (PWC) PW118A, PW123, PW124B, PW125B, and PW126A turboprop engines, that requires rework of the existing intercompressor case (ICC) and replacement of the low pressure rotor speed (NL) sensor port sealing tube and the external air tube connecting the P2.5/P3 switching valve to the rear inlet case. This amendment is prompted by reports of internal oil fires in the ICC. The actions specified by this AD are intended to prevent fire in the engine nacelle cavity, inflight engine shutdown, and aircraft damage.

DATES: Effective February 26, 1993.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of February 26, 1993.

ADDRESSES: The service information referenced in this AD may be obtained from Pratt & Whitney Canada, Technical Publications Department, 1000 Marie Victorin, Longueuil, Quebec J4G 1A1. This information may be examined at the Federal Aviation Administration (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 20001.

FOR FURTHER INFORMATION CONTACT: Robert J. Ganley, Engine Certification Office, ANE–140, Engine and Propeller Directorate, Aircraft Certification Service, FAA, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803–5299, (617) 272–5047; fax (617) 270–2412.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations to include a new airworthiness directive (AD) that is applicable to Pratt & Whitney Canada (PWC) PW118A, PW123, PW124B, PW125B, and PW126A turboprop engines was published in the Federal Register on December 16, 1991 (56 FR 65196). That action proposed to require rework of the existing 2-hole internal air passage intercompressor case (ICC) configuration to a 19-hole design, and replacement of the low pressure rotor speed (NL) sensor port sealing tube and the external air tube connecting the P2.5/P3 switching valve to the rear inlet case in accordance with PWC Service Bulletin (SB) No. 20914, Revision 2, dated June 3, 1991, and PWC SB No. 20957, Revision 2, dated June 10, 1991, respectively.

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, however, recommends that some form of crew notification be included as part of the final rule so that each of the aircraft manufacturers specified in the AD will alert operators and their respective crews. The FAA agrees that crew notification should be addressed and is considering further rulemaking in which this may be addressed. However, the FAA does not agree that crew notification should be included in this rule. This rule pertains only to the engine modifications that are intended to prevent an ICC fire and subsequent progression into the engine nacelle cavity.

One commenter states that Part B of PWC SB No. 20914, Revision 2, dated June 3, 1991, has been superseded by PWC SB No. 21097, dated November 8, 1991, for the PW126A engine, and that the AD should be updated accordingly to reflect this new service bulletin. The FAA agrees in part. The updated service bulletin, PWC SB No. 21097, dated November 8, 1991, introduces an integral fire detector which was not required by the proposed AD. All other aspects of the updated service bulletin, however, afford an equivalent level of safety, and, therefore, the FAA has included PWC SB No. 21097, dated November 8, 1991, in the AD as an additional compliance option for the PW126A engine.

One commenter states that Part B of PWC SB No. 20914, Revision 2, dated June 3, 1991, will be superseded by a service bulletin not yet released for the PW123 engine, and that the AD should be updated accordingly to reflect this new service bulletin. The FAA agrees in part. The updated service bulletin, PWC SB No. 21113 dated February 21, 1992, introduces an integral fire detector which was not required by the proposed AD. All other aspects of the updated service bulletin, however, afford an equivalent level of safety, and, therefore, the FAA has included PWC SB No. 21113 dated February 21, 1992, in the AD as an additional compliance option for the PW123 engine.

Similar PWC service bulletins that introduce external air tube designs with an integral fire detector are also being included as additional compliance options for the other engine models affected by this AD.

One commenter expresses concern about meeting the proposed compliance times due to hardware availability. The FAA agrees and the compliance time has been changed.

One commenter states that the definition of engine shop visit should be changed to encompass only engine shop visits where a major engine flange is disturbed. Making that change to the definition of engine shop visit would have the effect of relaxing the compliance times for the AD. The FAA disagrees with the commenter regarding any relaxation of the compliance time for paragraph (a) of the AD. Paragraph (a) requires the replacement of the NL sensor port sealing tube and the external air tube connecting the P2.5/P3 switching valve to the rear inlet case. Compliance with paragraph (a) of this AD is intended to contain an ICC fire internally in the engine. This is required to be accomplished as soon as possible to preclude the possibility of an internal ICC fire progressing into the engine nacelle cavity. Therefore, the definition

for an engine shop visit in paragraph (a) of this AD remains as stated in the NPRM.

However, the FAA does agree with the commenter that once the risk of an uncontained fire has been reduced, there is less urgency in the rework or replacement of the existing 2-hole internal air passage ICC to the 19-hole design required in paragraph (b). Thus, the requirements for compliance in paragraph (b) of this AD will be relaxed. The definition of an engine shop visit for paragraph (b) will be changed to require rework at the next engine shop visit involving the separation of any major module.

Since publication of the NPRM, the manufacturer has issued revised service bulletins that have miscellaneous editorial changes, they are as follows: PWC SB No. 20914, Revision 3, dated October 15, 1991, and PWC SB 20957, Revision 4, dated December 9, 1991.

Also, since publication of the NPRM, the FAA has determined that additional service bulletins should be included in this AD to provide additional compliance options. Therefore, the following service bulletins are included in this AD: PWC SB No. 21112, dated February 13, 1992, for PW118A engines; PWC SB No. 21113, Revision 1, dated May 4, 1992, for PW123 engines; PWC SB No. 21111, dated December 16, 1991, for PW124B engines; PWC SB No. 21088, Revision 1, dated November 12, 1991, for PW125B engines; PWC SB No. 21097, dated November 8, 1991, for PW126A engines; and PWC SB No. 20962, Revision 3, dated May 11, 1992, applicable for all PW100 models.

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require adoption of the rule with the changes described previously. 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 683 PW100 series turboprop engines of the affected design in the worldwide fleet. It is estimated that approximately 85 engines installed on aircraft of U.S. registry will be affected by this AD, that it will take approximately 8 work hours per engine to accomplish the required actions, and that the average labor rate is $55 per work hour. The FAA had been advised that the manufacturer will supply the required parts under a warranty program. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $37,400.

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 prepared for this action 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:

92–22–01—Pratt & Whitney Canada: Amendment 39–8387. Docket No. 91–ANE–41.

Applicability: Pratt & Whitney Canada (PWC) PW118A, PW123, PW124B, PW125B, and PW126A series turboprop engines installed on but not limited to Embraer EMB–120, DeHavilland Dash 8 Series 300, Aerospatiale ATR 72, Fokker 50, and British Aerospace ATP aircraft.

Compliance: Required as indicated, unless accomplished previously.

To prevent fire in the engine nacelle cavity, inflight engine shutdown, and aircraft damage, accomplish the following:

(a) Replace the low pressure rotor speed (NL) sensor port sealing tube and the external air-tube connecting the P2.5/P3 switching-valve to the rear inlet case at the next engine shop visit, when the engine is inducted into the shop for the conduct of maintenance, but not later than April 27, 1993, as follows:

(1) For PW118A engines, in accordance with PWC Service Bulletin (SB) No. 20914, Revision 3, dated October 15, 1991, or PWC SB No. 21112, dated February 13, 1992.

(2) For PW123 engines, in accordance with PWC SB No. 20914, Revision 3, dated October 15, 1991, or PWC SB No. 21113, Revision 1, dated May 4, 1992.

(3) For PW124B engines, in accordance with PWC SB No. 20914, Revision 3, dated October 15, 1991, or PWC SB No. 21111, dated December 16, 1991.

(4) For PW125B engines, in accordance with PWC SB No. 20914, Revision 3, dated October 15, 1991, or PWC SB No. 21088, Revision 1, dated November 12, 1991.

(5) For PW126A engines, in accordance with PWC SB No. 20194, Revision 3, dated October 15, 1991, or PWC SB No. 21097, dated November 8, 1991.

(b) Rework the existing 2-hole internal air passage ICC to a 19-hole design or replace the existing ICC, in accordance with the Accomplishment Instructions of PWC SB 20957, Revision 4, dated December 9, 1991, or PWC SB No. 20962, Revision 3, dated May 11, 1992, at the next engine shop visit when the engine is inducted into the shop and any major module is separated, but not later than June 30, 1994.

(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, Engine Certification Office, FAA, Engine and Propeller Directorate. The request shall be forwarded through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Engine Certification Office.

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

(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 and rework procedures shall be done in accordance with the following service documents:

Document No.	Pages	Issue/revision	Date
PWC SB 20914. Total Pages: 13.	1–13	Revision 3	10–15–91
PWC SB 21112. Total Pages: 6.	1–6	Original	2–13–92
PWC SB 21113. Total Pages: 14.	1–14	Revision 1	5–4–92
PWC SB 21111. Total Pages: 12.	1–12	Original	12–16–91
PWC SB 21088.	1–18	Revision 1	11–12–91

Document No.	Pages	Issue/revision	Date
Total Pages: 18.			
PWC SB 21097.	1–11	Original	11–8–91
Total Pages: 11.			
PWC SB 20957.	1–8	Revision 4	12–9–91
Total Pages: 8.			
PWC SB 20962.	1–3	Revision 3	5–11–92
Total Pages: 3			

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 Pratt & Whitney Canada, Technical Publications Department, 1000 Marie Victorin, Longueuil, Quebec J4G 1A1. 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 20001.

(f) This amendment becomes effective on February 26, 1993.

Issued in Burlington, Massachusetts, on December 14, 1992.

Jay J. Pardee,

Assistant Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 93–1930 Filed 1–26–93; 8:45 am]

BILLING CODE 4910–13–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 92–123; RM–7992]

Radio Broadcasting Services; Mexico, NY

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Renard Communications Corp., allots Channel 280A to Mexico, New York, as the community's first local FM service. See 57 FR 27416, June 19, 1992. Channel 280A can be allotted to Mexico in compliance with the Commission's minimum distance separation requirements without the imposition of a site restriction, at coordinates North Latitude 43–27–34 and West Longitude 76–13–45. This allotment is short-spaced to Station CHXL–FM, Channel 279B, Brockville, Ontario, and Station CBBP–FM, Channel 280B, Peterboro, Ontario, Canada. However, the Commission has determined that a station can limit its power in the direction of the Canadian stations and thus avoid any prohibited interference. Canadian concurrence in the allotment as a specially negotiated allotment has been received since Mexico is located within 320 kilometers (200 miles) of the U.S.-Canadian border. With this action, this proceeding is terminated.

DATES: Effective March 8, 1993. The window period for filing applications will open on March 9, 1993, and close on April 8, 1993.

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

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and order, MM Docket No. 92–123, adopted December 21, 1992, and released January 21, 1993.

The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, Downtown Copy Center, (202) 452–1422, 1990 M Street, NW., suite 640, Washington, DC 20036.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

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

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

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under New York, is amended by adding Mexico, Channel 280A.

Federal Communications Commission.

Michael C. Ruger,

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

[FR Doc. 93–1955 Filed 1–26–93; 8:45 am]

BILLING CODE 6712–01–M

47 CFR Part 73

[MM Docket No. 92–212; RM–8064]

Radio Broadcasting Services; Rudolph, WI

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document substitutes Channel 260C3 for Channel 260A at Rudolph, Wisconsin, and modifies the license for Station WIZD to specify operation on Channel 260C3 in response to a petition filed by Wizard Communications, Inc. See 57 FR 44548, September 28, 1992. The coordinates for Channel 260C3 at Rudolph are 44–21–31 and 89–39–23. With this action, this proceeding is terminated.

EFFECTIVE DATE: March 8, 1993.

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

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 92–212, adopted December 21, 1992, and released January 21, 1993. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, Downtown Copy Center, 1990 M Street, NW., suite 640, Washington, DC 20036, (202) 452–1422.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

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

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

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Wisconsin, is amended by removing Channel 260A and adding Channel 260C3 at Rudolph.

Federal Communications Commission.

Michael C. Ruger,

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

[FR Doc. 93–1956 Filed 1–26–93; 8:45 am]

BILLING CODE 6712–01–M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

49 CFR Part 1

[OST Docket No. 1; Amdt. 1–257]

Organization and Delegation of Powers and Duties; Redelegation of Authority to Commandant, United States Coast Guard; Federal Highway Administrator; Federal Railroad Administrator; and the Administrator of the Research and Special Programs Administration

AGENCY: Office of the Secretary, DOT.

ACTION: Final rule.

SUMMARY: The Secretary of Transportation has redelegated to the Commandant, United States Coast Guard, certain authority vested in the President by the Oil Pollution Act of 1990 (OPA 90) and delegated to the Secretary by Executive Order (E.O.) 12777. Specifically this rule modifies the redelegations of authority published in the **Federal Register** on March 11, 1992, and December 31, 1992. It provides authority to the Commandant, U.S. Coast Guard to regulate motor carriers and railroads for operations incident to the transfer of oil or hazardous materials to or from vessels.

EFFECTIVE DATE: January 27, 1993.

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

SUPPLEMENTARY INFORMATION: In response to several major oil spills, Congress passed the Oil Pollution Act of 1990 (OPA 90) (Pub. L. 101–380, 104 Stat. 484, August 18, 1990) in order to prevent, respond to, and pay for oil and hazardous substance spills. The President delegated to the Secretary, by Executive Order (E.O.) 12777, authority under OPA 90 to promulgate regulations to protect the environment from oil and hazardous substance spills during transportation by vessel, motor vehicle, railroad, or pipeline. In delegations published March 11, 1992 (57 FR 8581) and December 31, 1992 (57 FR 62463), the Secretary redelegated portions of this authority to the Commandant, United States Coast Guard (Commandant); Administrator, Maritime Administration; Administrator, Federal Highway Administration (FHWA); Administrator, Federal Railroad Administration (FRA); and Administrator, Research and Special Programs Administration (RSPA). In part, these redelegations gave authority to review and approve response plans concerning discharges from pipelines, motor carriers, and railways to, respectively, the Administrators of RSPA, FHWA, and FRA. The redelegation to the Commandant concerning response plans excepted authority concerning discharges from pipelines, motor carriers, and railways. This rule modifies the previous delegations by providing authority to the Commandant to issue regulations requiring the preparation of response plans and to review and approve response plans concerning operations incident to the transfer of oil or hazardous materials from motor carriers or railroads to vessels or from vessels to motor carriers or vessels. This rule also makes editorial changes to the previous delegations, such as changing "railways," which appeared in the March 11 delegation, to "railroads."

Because this rulemaking, which makes changes that are necessary to reflect the delegations under OPA 90 and E.O. 12777, relates to Departmental management, organization, procedure, and practice, notice and comment on it are unnecessary, and it may be made effective fewer than 30 days after publication in the **Federal Register.** Therefore, this final rule is effective on the date of publication.

List of Subjects in 49 CFR Part 1

Authority delegations (Government agencies), Organization and functions (Government agencies).

In consideration of the foregoing, part 1 of title 49, Code of Federal Regulations, is amended as follows:

PART 1—ORGANIZATION AND DELEGATION OF POWERS AND DUTIES

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

Authority: 49 U.S.C. 322.

2. Section 1.46 is amended by revising paragraph (m) to read as follows:

§ 1.46 Delegations to Commandant of the Coast Guard.

* * * * *

(m) Carry out the functions assigned to the Secretary by Executive Order 12777 (3 CFR, 1991 Comp.; 56 FR 54757) in sections 1(b), 2(a), 2(b)(2), 2(c), 2(d)(2), 2(e)(2), 2(f), 2(g)(2), 3, 5(a)(2), 5(b)(1) and (3), 6, 7(a) (1) and (3), 7(b), 7(c), 7(d), 8(d), 8(f), 8(g), 8(h), 9, and 10(c), excepting that portion of section 2(b)(2) relating to the establishment of procedures, methods, and equipment and other requirements for equipment to prevent and to contain discharges of oil and hazardous substances from pipelines, motor carriers, and railroads; and further excepting the exercise of the authority in section 2(d)(2) over motor carriers and railroads, other than for operations incident to the transfer of oil or hazardous substances to or from vessels, and the exercise of the authority in section 2(d)(2) over pipelines.

* * * * *

3. Section 1.48 is amended by revising paragraph (jj) to read as follows:

§ 1.48 Delegations to Federal Highway Administrator.

* * * * *

(jj) Carry out the functions and exercise the authority delegated to the Secretary in section 2(d)(2) of Executive Order 12777 (3 CFR, 1991 Comp.; 56 FR 54757), with respect to highway transportation, relating to the approval of means to ensure the availability of private personnel and equipment to remove, to the maximum extent practicable, a worst case discharge, the review and approval of response plans, and the authorization of motor carriers, subject to the Federal Water Pollution Control Act (33 U.S.C. 1321), to operate without approved response plans, except as delegated in § 1.46(m).

4. Section 1.49 is amended by revising paragraph (ii) to read as follows:

§ 1.49 Delegations to Federal Railroad Administrator.

* * * * *

(ii) Carry out the functions and exercise the authority delegated to the Secretary in section 2(d)(2) of Executive Order 12777 (3 CFR, 1991 Comp.; 56 FR 54757), with respect to rail transportation, relating to the approval of means to ensure the availability of private personnel and equipment to remove, to the maximum extent practicable, a worst case discharge, the review and approval of response plans, and the authorization of railroads, subject to the Federal Water Pollution Control Act (33 U.S.C. 1321), to operate without approved response plans, except as delegated in § 1.46(m).

5. Section 1.53, paragraph (k) is revised to read as follows:

§ 1.53 Delegations to the Administrator of the Research and Special Programs Administration.

* * * * *

(k)(1) Carry out the functions and exercise the authority delegated to the Secretary in Executive Order 12777 (3 CFR, 1991 Comp.; 56 FR 54757) in section 2(b)(2) relating to the establishment of procedures, methods, and equipment and other requirements for equipment to prevent discharges from, and to contain oil and hazardous substances in, pipelines, motor carriers, and railroads. (See 49 CFR 1.46 and 1.66.)

(2) Carry out the functions and exercise the authority delegated to the Secretary in section 2(d)(2) of Executive Order 12777 (3 CFR, 1991 Comp.; 56 FR 54757) relating to the issuance of regulations requiring the owners or operators of pipelines, motor carriers, and railroads, subject to the Federal Water Pollution Control Act (33 U.S.C. 1321), to prepare and submit response plans, except as delegated in section 1.46(m). For pipelines subject to the

Federal Water Pollution Control Act (33 U.S.C. 1321), this authority includes the approval of means to ensure the availability of private personnel and equipment to remove, to the maximum extent practicable, a worst case discharge, the review and approval of response plans, and the authorization of pipelines to operate without approved response plans.

Issued on: January 15, 1993.

Andrew H. Card, Jr.,

Secretary, Department of Transportation.

[FR Doc. 93–1827 Filed 1–26–93; 8:45 am]

BILLING CODE 4910–62–M

Proposed Rules

Federal Register
Vol. 58, No. 16
Wednesday, January 27, 1993

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

NUCLEAR REGULATORY COMMISSION

10 CFR Chapter 1

NRC Program for Elimination of Requirements Marginal to Safety; Public Workshop

AGENCY: Nuclear Regulatory Commission.

ACTION: Notification of rescheduled dates and publication of advanced material for Public Workshop.

SUMMARY: On November 24, 1992 (57 FR 55156), the NRC published a notice to announce its continuing program to eliminate requirements marginal to safety and a public workshop for the program. Subsequently, the NRC published a notice (57 FR 58727) deferring the workshop to expand the scope and include other aspects of the staff plants to improve the efficiency of the regulatory process. The workshop has been rescheduled and will now be held on April 27 and 28, 1993. This notice provides the agenda and advance material for the Public Workshop.

DATES: Public Workshop has been rescheduled for April 27 and 28, 1993.

ADDRESSES: Public Workshop will be held at the Holiday Inn Bethesda, 8120 Wisconsin Avenue, Bethesda, Maryland. Phone (301) 652–2000, (800) 638–5954.

Hotel reservations may be obtained at a special rate by calling the Holiday Inn Bethesda. A block of rooms has been reserved for this workshop until April 5, 1993. Mention Group No. 3520 when making the reservation.

Pre-registrations, requests to serve on a panel or speak on a topic should be sent by mail or facsimile to Dr. Moni Dey, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555, FAX (301) 443–7836. Copies of the NRC reports to the President may be examined at: The NRC Public Document Room, 2120 L Street, NW. [Lower Level], Washington, DC.

FOR FURTHER INFORMATION CONTACT: Dr. Moni Dey, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Phone (301) 492–3730, FAX (301) 443–7836.

SUPPLEMENTARY INFORMATION: Preliminary Agenda for Public Workshop on NRC Program for Elimination of Requirements Marginal to Safety.

April 27, 1993

7:30 a.m.—Registration

Morning Session

8:30 a.m.—Introductory Remarks/ Workshop Objectives (NRC)
9 a.m.—Program Overview (Scope, Schedules, and Status) and Integration into Regulatory Process (NRC)
Q&A
10 a.m.—Coffee Break
10:15 a.m.—Framework for a Performance-Based Regulatory Approach (Panel/General Discussion)
11:45 p.m.—Lunch

Afternoon Session

12:45 p.m.—Containment Leakage Testing Requirements—Leakage Rate and 10 CFR 50 Appendix J (Panel/General Discussion)
2:45 p.m.—Coffee Break
3 p.m.—Fire Protection Requirements (Panel/General Discussion)
5 p.m.—Adjourn

April 28, 1993

7:30 a.m.—Registration

Morning Session

8:30 a.m.—Requirements for Combustible Gas Control Systems (Panel/General Discussion)
10:30 a.m.—Coffee Break
11:45 a.m.—Requests for Information Under 10 CFR 50.54(f) (Speakers)
12:30 p.m.—Lunch

Afternoon Session

1:30 p.m.—Quality Assurance Requirements (Speakers)
2:15 p.m.—Requirements for Environmental Qualification of Electrical Equipment (Speakers)
3 p.m.—Coffee Break
3:15 p.m.—Requirements for Physical Protection for Power Reactors (Speakers)
4 p.m.—Procedures for Continuing Focus and Interactions for Ongoing Program (NRC/Speakers)
5 p.m.—Adjourn

The Workshop will commence with the NRC providing introductory remarks, statements on the objectives of the Workshop, and a review of the program including scope, schedules, and status of specific items. The NRC will then lead an initial discussion on ways to permanently integrate this program into the regulatory process. The Workshop will conclude with a continuation of this discussion, given the needs identified in the discussions of specific topics, for determining procedures for continuing focus and interaction for the ongoing program.

As indicated in the agenda there will be four topics for which there will be a panel and general discussion. Panels, with approximately six members for each of the four topics, will be formed based on those that indicate an interest to serve on a specific panel and on obtaining a spectrum of comments and views that the NRC determines will be most beneficial towards its objectives. Each panelist will be expected to provide a presentation, of about 10 minutes, on his or her views, experiences, and comments on that specific topic. This will be followed by a discussion among the panelists and opportunity for members of the general public attending the panel discussion session to provide their views. In their presentations, panelists will be expected to provide comments on the NRC proposals and also their general views and experiences related to the topic.

The sessions on April 28, 1993, includes five topics for which NRC solicits speakers to provide a 5 to 10 minute presentation on their views and experiences on the specific topic. The NRC does not intend to publish any additional material, other than what is contained in this notice, on these topics prior to the Workshop. If time permits, other attendees at the sessions will be provided any opportunity to speak on the topic.

Pre-Registration

In order to allow for appropriate arrangements for participants, pre-registration for the meeting by April 12, 1993, is encouraged. Prospective participants can pre-register by sending the following information to the contact by mail or facsimile: (1) Name; (2) Title; (3) Organization; (4) Address; and (5) Telephone number. Requests to serve as

a member of any of the 4 panels, or speak on any of the 5 topics in the sessions on April 28, 1993, can be made by sending the above information, requested for pre-registrants, plus the specific panel on topic, by mail or facsimile to the contact by April 5, 1993. Requests to be on a panel or speak will be processed on a first come basis.

Performance-Based Regulatory Approach

The following are preliminary criteria and specific, potential applications to three regulations that will be used as a starting point for discussions at the public workshop. However, participants need not limit their comments to the published material and are encouraged to provide new and innovative ideas and approaches. Comments and approaches proposed at the public workshop will be reviewed and evaluated by the staff towards finalizing the general framework for developing performance-based regulations and specific approaches for three proposed rulemakings.

Preliminary Criteria for Developing Performance-Based Regulations

A. Revised rules will focus on establishing the regulatory/safety objective in as an objective manner as possible. The main aim of a performance-based regulatory approach is to allow licensees flexibility to use cost-effective methods for implementation of the objectives.

B. The regulatory objective will be derived, to the extent feasible, from risk considerations and relationship to safety goals.

C. Detailed technical methods for measuring or judging the acceptability of licensee's performance relative to the regulatory objectives will be provided in Regulatory Guides. To the extent possible, approved industry standards and guidance will be endorsed in this regard.

D. Collective industry effort (NUMARC, EPRI, Owner's Groups) are encouraged to maintain standardized industry practices.

E. The new rules will be optional for current licensees and thus licensees can decide to remain in compliance with current regulations.

F. Scope of this effort will not be limited to regulations, but will address the body of regulatory practice e.g. Standard Review Plan, inspection procedures, technical specifications, and other regulatory documents.

G. Performance-based regulatory approach should provide incentives for innovation and improvements in safety.

H. The following issues with regard to the three proposed rulemaking activities need to be addressed in the process:

(1) Can the new rule and its implementation yield an equivalent level of, or only have a marginal impact on, safety.

(2) Can the regulatory/safety objective (qualitative or quantitative) be established in an objective manner to allow a common understanding between licensees and the NRC on how the performance or results will be measured or judged.

(3) Can the regulation and implementation documents be developed in such a manner that they can be objectively and consistently inspected and enforced against.

Specific Potential Applications of a Performance-Based Regulatory Approach

I. Containment Leakage and Testing Requirements

Present Regulatory Objectives

A. *Containment Leakage:* GDC 16—Provide essentially leak-tight barrier against uncontrolled release of radioactivity to environment for postulated accidents (leak-tightness is specified with a allowable leakage rate in the plant technical specifications).

B. *Containment Testing:* Test the overall containment, pressure-containing or leakage-limiting boundaries, and containment isolation valves at specific intervals (identified in rule) to confirm and provide confidence the allowable leakage rate will not be exceeded for postulated accidents.

Background

- Present information of risk from postulated accidents indicate that the allowable leakage rate from containments can be increased.
- Risk studies have shown that control of containment leakage at low rates is not as risk significant as previously assumed.
- Containment leakage tests are conducted to confirm the availability of the containment, and they indirectly reduce risk based on these assumptions.

Potential Modifications

- Two separate initiatives:

A. Increase allowable containment leakage rate based on safety goals and PRA technology (define new performance standard). Rulemaking may not be necessary since leakage rate is specified in Technical Specifications.

B. Modify Appendix J to a performance-based regulation:

—Limit revised rule to a new regulatory objective: In order to ensure the availability of the containment during postulated accidents, licensees should either: (a) test overall containment leakage no longer than every 10 years, and test pressure-containing or leakage-limiting boundaries and containment isolation valves on an interval based on the performance history of the equipment; or (b) provide an on-line monitoring capability of containment isolation status.

—Move details of the tests and reporting in Appendix J to a Regulatory Guide as guidance.

—Endorse approved industry standards on: (1) Guidance for calculating plant-specific allowable leakage rates based on new NRC performance standard; (2) Guidance on the conduct of containment tests; and (3) Guidance for on-line monitoring of containment isolation status.

—Current detailed requirements in Appendix J will continue to be acceptable for compliance with the modified rule (licensees presently in compliance with Appendix J will not need to do anything if they do not wish to change their practice).

II. Fire Protection Requirements (Appendix R to 10 CFR 50)

Present Regulatory Objective

SSC important to safety shall be designed and located to minimize, consistent with other safety requirements, the probability and effects of fires and explosions—GDC 3.

Background

- Appendix R expands on the above regulatory objective by: (1) specifying fire damage limits to trains of systems associated with achieving and maintaining safe shutdown conditions, or (2) requiring an alternative or dedicated shutdown capability if fire damage limits cannot be achieved.
- Appendix R contains further specific requirements for separation criteria to achieve fire damage limits, water supplies for fire suppression systems, valves, manual fire suppression, tests, automatic fire detection, fire brigade, emergency lighting, administrative controls, design of alternative and dedicated shutdown capability, fire barrier cable penetrating seal qualification, and fire doors.
- PRA technology is now available to determine the risk significance of fire sequences in various areas of a plant, and may provide a basis for the design of fire protection features.

Potential Modification

Modify Appendix R to a performance-based regulation:

• Replace deterministic criteria in Appendix R that specify limits to fire damage to trains of systems with criteria that allows the use of PRA technology and risk significance of fire sequences to determine fire protection features (establish quantitative criterion related to safety goals if feasible).

• Move various means for achieving the regulatory objective of Appendix R, including fire damage limits to trains of systems and necessary separation criteria, to a Regulatory Guide.

• Endorse approved industry standard on the use of PRA technology in determining fire protection features in a Regulatory Guide.

• Current detailed requirements in Appendix R will continue to be acceptable for compliance with the modified rule (licensees presently in compliance with Appendix R will not need to do anything if they do not wish to change their practice).

• The following areas of fire protection requirements in Appendix R have potential for reduction in burden with marginal impact on safety (these areas were previously identified in NUREG/CR–4330,[1] Vol. 1, "Review of Light Water Reactor Regulatory Requirements," April 1986): (1) Disabling of automatic features; (2) Transient combustible load assumptions; (3) Loss of offsite power; (4) Three-hour fire barriers; (5) Allowance for operator actions and (6) Emergency lighting.

III. Standard for Combustible Gas Control System in Light-Water Cooled Power Reactors (10 CFR 50.44)

Present Regulatory Objective

Each boiling or pressurized light-water nuclear power reactor fueled with oxide pellets within cylindrical metal cladding shall include means for control of hydrogen gas, generated following risk-significant postulated accidents, that is necessary to ensure that containment structural integrity is maintained and its leakage does not exceed the rate specified in Criterion 16 of appendix A of 10 CFR part 50 following combustion or detonation of hydrogen during the postulated accidents. Postulated accidents shall include those that lead to: (1) Degraded core conditions without reactor pressure vessel (RPV) failure for light-water reactors whose application for a construction permit or manufacturing license was granted before February 16, 1982; or (2) full core melt with RPV failure for light-water reactors whose application for a construction permit or manufacturing license was pending as of, or submitted after, February 16, 1982.

Background

• 10 CFR 50.44 presently requires the following for operating reactors:

—Recombiners for all types of containments to control hydrogen generated in a postulated LOCA involving about 5% of the cladding (Later Mark I and II containments were exempted from this requirement).

—Mark I and II containments were required to be inerted, considering postulated severe accidents.

—BWR Mark III and Ice Condenser pressure-suppression containments must have a control system for hydrogen generated from reactions involving 75% of the fuel cladding, based on a limiting case of degraded core accidents without RPV failure.

—Large dry containments were excluded from above requirement to control hydrogen from reactions involving 75% of fuel cladding, because of its capability to withstand pressures resulting from combustion/denotation of large amounts of hydrogen generated during postulated severe accidents.

—Large dry containments have not been exempted from requirement for recombiners which are not effective for controlling hydrogen generated from risk-significant severe accident sequences (this issue has been under consideration as a marginal-to-safety requirement).

• 10 CFR 50.34(f) addresses hydrogen control for future plants and requires systems that can control hydrogen generated from reaction of 100% of the fuel cladding.

• 10 CFR 50.44 and 50.34 are rules that evolved through the years and have become prescriptive. They specify the design capacity of hydrogen control systems and thus may not encourage the design of, or allow credit for, systems/features that could decrease the amount of hydrogen generated.

Potential Modification

Modify 10 CFR 50.44 and 10 CFR 50.34(f)(ix) to a performance-based regulation:

• The above present regulatory objective could be the revised rule.

• Eliminate amounts of hydrogen to be controlled from the rules.

• Transfer staff positions on methods to meet the performance standards to a Regulatory Guide (e.g., operating Mark I and II containments should be inerted, and operating BWR Mark III and PWR Ice Condenser containments should control hydrogen generated involving 75% of the fuel cladding).

• Establish regulatory position that recombiners can be eliminated from large dry and subatmospheric containments.

• Transfer staff position, that future reactors address hydrogen generated involving 100% of cladding, from 10 CFR 50.34(f)(ix) to a Regulatory Guide.

• Licensees currently in compliance with 10 CFR 50.44 will continue to be in compliance with modified rule.

• A need for industry effort in this area for operating reactors is not anticipated, unless industry has any new and alternative proposals for meeting the regulatory objectives.

As stated earlier, the above material will be used as a starting point for discussions at the public workshop. Participants need not limit their comments to this material and are encouraged to provide new and innovative ideas and approaches.

Subject: NRC Program for Elimination of Requirements Marginal to Safety.

Dated at Rockville, Maryland, this 21st day of January 1993.

For the Nuclear Regulatory Commission.

Warren Minners,

Director, Division of Safety Issue Resolution, Office of Nuclear Regulatory Research.

[FR Doc. 93–1947 Filed 1–26–93; 8:45 am]

BILLING CODE 7590–01–M

[1] Copies of NUREG series reports may be purchased through the U.S. Government Printing Office by calling (202) 512–2249 or by writing to the U.S. Government Printing Office, P.O. Box 37082, Washington, DC 20013–7082. Copies may also be purchased from the National Technical Information Service, U.S. Department of Commerce, 5285 Port Royal Road, Springfield, VA 22161. A copy is available for inspection or copying for a fee in the NRC Public Document Room, 2120 L Street, NW. (Lower Level), Washington, DC.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 92–NM–230–AD]

Airworthiness Directives; Boeing Model 707 and 720 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the supersedure of an existing airworthiness directive (AD), applicable to certain Boeing Model 707 and 720 series airplanes, that currently requires repetitive inspections to detect cracks in the inboard nacelle strut midspar fittings, and replacement, if necessary.

This action would continue to require repetitive inspections of the fittings, and replacement, if necessary, and would add a requirement for replacement of the fittings with improved fittings, which, when installed, would constitute terminating action for the repetitive inspections. This proposal is prompted by the development of improved fittings that would correct the fatigue cracking problem addressed in the existing AD. The actions specified by the proposed AD are intended to prevent separation of an inboard engine from an airplane.

DATES: Comments must be received by March 22, 1993.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 92–NM–230–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Stanton R. Wood, Aerospace Engineer, Seattle Aircraft Certification Office, Airframe Branch, ANM–120S, FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98055–4056; telephone (206) 227–2772; fax (206) 227–1181.

SUPPLEMENTARY INFORMATION:

Comments Invited

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 92–NM–230–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 92–NM–230–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

On August 27, 1992, the FAA issued AD 92–19–15, Amendment 39–8373 (57 FR 43890, September 23, 1992), to require repetitive inspections to detect cracks in the inboard nacelle strut midspar fittings, and replacement, if necessary. That action was prompted by two reports of engine and pylon separations on Model 707 series airplanes and numerous reports of cracks found in the midspar fittings. The requirements of that AD are intended to prevent separation of an inboard engine from an airplane.

The FAA indicated in the preamble to AD 92–19–15 that Boeing had designed an improved midspar fitting, which, if installed, would positively correct the unsafe condition of fatigue cracking addressed in that AD. The FAA also indicated in the existing AD that it planned further rulemaking to require replacement of the midspar fittings with the improved fitting in order to eliminate the need for the required repetitive inspections.

The improved midspar fitting and procedures for its installation are described in Boeing Service Bulletin 3183, Revision 1, dated May 17, 1977, and Revision 2, dated January 28, 1988. This improved fitting provides greater fatigue resistance. Its installation involves engine removal, strut rotation about the overwing fitting, and dismantling of the strut torque bulkhead for access. The FAA has reviewed and approved previously both revisions of that service bulletin.

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would supersede AD 92–19–15 to continue to require repetitive inspections to detect cracks in the inboard nacelle strut midspar fittings, and replacement, if necessary. It would also require the eventual installation of the improved midspar fitting, which, when installed, would constitute terminating action for the repetitive inspections. The actions would be required to be accomplished in accordance with the service bulletins described previously.

There are approximately 187 Model 707 and 720 series airplanes of the affected design in the worldwide fleet. The FAA estimates that 53 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 260 work hours per airplane to accomplish the proposed actions, and that the average labor rate is $55 per work hour. Required parts would cost approximately $7,800 per airplane. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $1,171,300, or $22,100 per airplane. This total cost figure assumes that no operator has yet accomplished the proposed requirements of this AD action.

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by removing amendment 39–8373 (57 FR 43890, September 23, 1992), and by adding a new airworthiness directive (AD), to read as follows:

Boeing: Docket 92–NM–230–AD. Supersedes AD 92–19–15, Amendment 39–8373.

Applicability: Model 707 and 720 series airplanes; line numbers 1 through 906, inclusive; including Model 707 and 720 series airplanes that have been modified in accordance with Supplemental Type Certificates (STC's) SA2699NM, SA3595NM, or SA4015NM; certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent separation of an inboard engine from an airplane, accomplish the following:

(a) Perform a close visual inspection of the midspar fittings to detect cracks in accordance with Boeing Service Bulletin 3183, Revision 4, dated July 8, 1992, unless accomplished previously in accordance with Boeing Service Bulletin 3183, Revision 2, dated January 28, 1988, at the time specified in paragraph (a)(1), (a)(2), (a)(3), or (a)(4), of this AD, as applicable.

(1) For Model 707–300B/C series airplanes modified by installation of a "hush kit" in accordance with Supplemental Type Certificate (STC) SA2699NM, at the later of the times specified in paragraph (a)(1)(i) or (a)(1)(ii) of this AD:

(i) Prior to the accumulation of 12,000 flight hours; or

(ii) Within 650 flight hours or 250 flight cycles after October 8, 1992 (the effective date of AD 92–19–15, Amendment 39–8373), whichever occurs first.

(2) For Model 707–100B and 720B series airplanes modified by installation of a "hush kit" in accordance with STC SA3595NM or SA4015NM, at the later of the times specified in paragraph (a)(2)(i) or (a)(2)(ii) of this AD:

(i) Prior to the accumulation of 12,000 flight hours; or

(ii) Within 650 flight hours or 325 flight cycles after October 8, 1992 (the effective date of AD 92–19–15, Amendment 39–8373), whichever occurs first.

(3) For Model 707–300, 707–400, and 707–300B/C series airplanes, at the later of the times specified in paragraph (a)(3)(i) or (a)(3)(ii) of this AD:

(i) Prior to the accumulation of 12,000 flight hours; or

(ii) Within 1,100 flight hours or 400 flight cycles after October 8, 1992 (the effective date of AD 92–19–15, Amendment 39–8373), whichever occurs first.

(4) For Model 707–100, 707–100B, 707–200, 720 and 720B series airplanes, at the later of the times specified in paragraph (a)(4)(i) or (a)(4)(ii) of this AD:

(i) Prior to the accumulation of 12,000 flight hours; or

(ii) Within 1,100 flight hours or 550 flight cycles after October 8, 1992 (the effective date of AD 92–19–15, Amendment 39–8373), whichever occurs first.

(b) Repeat the inspection required by paragraph (a) of this AD thereafter at the intervals specified in paragraph (b)(1), (b)(2), (b)(3), or (b)(4) of this AD, as applicable, in accordance with Boeing Service Bulletin 3183, Revision 4, dated July 8, 1992.

(1) For Model 707–300B/C series airplanes modified by installation of a "hush kit" in accordance with STC SA2699NM: At intervals not to exceed 750 flight hours or 300 flight cycles, whichever occurs first.

(2) For Model 707–100B and 720B series airplanes modified by installation of a "hush kit" in accordance with STC SA3595NM or SA4015NM: At intervals not to exceed 750 flight hours or 375 flight cycles, whichever occurs first.

(3) For Model 707–300, –400, and –300B/C series airplanes: At intervals not to exceed 1,200 flight hours or 450 flight cycles, whichever occurs first.

(4) For Model 707–100, 707–100B, 707–200, 720, and 720B series airplanes: At intervals not to exceed 1,200 flight hours or 600 flight cycles, whichever occurs first.

(c) If any cracks are found in the midspar support fittings as a result of the inspections required by paragraph (a) or (b) of this AD, prior to further flight: Conduct an eddy current inspection, replace both midspar support fittings, and modify or repair all other structure specified in the service bulletin, in accordance with Boeing Service Bulletin 3183, Revision 1, dated May 13, 1977, or Revision 2, dated January 28, 1988. If a currently-installed fitting is replaced by a new fitting of the same part number, that new fitting must be inspected in accordance with the compliance times and procedures required by paragraphs (a) and (b) of this AD.

(d) Replace the midspar fittings with new, improved fittings, in accordance with Boeing Service Bulletin 3183, Revision 2, dated January 28, 1988, at the later of the times specified in paragraph (d)(1) or (d)(2) of this AD. Such replacement constitutes terminating action for the repetitive inspections required by this AD.

(1) Prior to the accumulation of 12,000 flight hours; or

(2) Within 4 years or 4,800 flight cycles after the effective date of this AD, whichever occurs first.

(e) Replacement of the midspar fittings with new, improved fittings, in accordance with Boeing Service Bulletin 3183, Revision 2, dated January 28, 1988, constitutes terminating action for the inspections required by this AD.

(f) 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.

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

Issued in Renton, Washington, on January 20, 1993.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 93–1933 Filed 1–26–93; 8:45 am]

BILLING CODE 4910–13–U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Chapter I

[FRL–4556–4]

Open Meeting of the Architectural and Industrial (AIM) Maintenance Coatings Negotiated Rulemaking Advisory Committee

AGENCY: Environmental Protection Agency.

ACTION: Notice.

SUMMARY: The AIM Negotiated Rulemaking Advisory Committee will meet in Newport Beach, California on February 11–12 to attempt to reach consensus that can be used as the basis of a proposed rule.

DATES: The meeting will take place on February 11–12 in Newport Beach, California. The February 11th meeting will start at 9 a.m. and run until 6 p.m. On February 12th, it will start at 8 a.m., and end by 3 p.m.

ADDRESSES: The meeting will be held at the Balboa Bay Club, 1221 West Coast Highway, Newport Beach, Cal., 92663, (714–645–5000).

FOR FURTHER INFORMATION CONTACT: Persons needing further information on substantive aspects of the rule should call Ellen Ducey of EPA's Office of Air Quality Planning and Standards at 919–541–5408. Persons needing further information on meeting logistics should call Barbara Stinson, the Committee Co-chair, at 303–468–5822.

Dated: January 21, 1993.

Chris Kirtz,

Director, Consensus and Dispute Resolution Program.

[FR Doc. 93–1876 Filed 1–26–93; 9:43 am]

BILLING CODE 6560–50–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 92–230; RM–8090]

Radio Broadcasting Services; Snow Hill, MD

AGENCY: Federal Communications Commission.

ACTION: Proposed rule, dismissal of.

SUMMARY: The Commission dismisses a petition for rule making filed by Snow Hill Community Broadcasting requesting the allotment of Channel 223A at Snow Hill, Maryland, for lack of interest in the allotment. See 57 FR 49057 (October 29, 1992). With this action, this proceeding is terminated.

EFFECTIVE DATE: February 26, 1993.

FOR FURTHER INFORMATION CONTACT: Victoria M. McCauley, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 92–230, adopted December 30, 1992, and released January 21, 1993. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, Downtown Copy Center, (202) 452–1422, 1990 M Street, NW., suite 640, Washington, DC 20036.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Michael C. Ruger,

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

[FR Doc. 93–1957 Filed 1–26–93; 8:45 am]

BILLING CODE 6712–01–M

47 CFR Part 73

[MM Docket No. 92–315, RM–8141]

Radio Broadcasting Services; Starbuck, MN

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition filed by Starbuck Broadcasters proposing the allotment of Channel 247C2 to Starbuck, Minnesota, as that community's first local broadcast service. The coordinates for Channel 247C2 and 45–33–44 and 95–34–15. There is a site restriction 6.7 kilometers (4.2 miles) southwest of the community.

DATES: Comments must be filed on or before March 15, 1993, and reply comments on or before March 30, 1993.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner's counsel as follows: Gregg P. Skall, Pepper & Corazzini, 1776 K Street, NW., suite 200, Washington, DC 20006.

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

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 93–315, adopted December 21, 1992, and released January 21, 1993. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, Downtown Copy Center, 1990 M Street, NW., suite 640, Washington, DC 20036, (202) 452–1422.

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

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

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

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Michael C. Ruger,

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

[FR Doc. 93–1954 Filed 1–26–93; 8:45 am]

BILLING CODE 6712–01–M

Notices

Federal Register
Vol. 58, No. 16
Wednesday, January 27, 1993

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

Agricultural Stabilization and Conservation Service

Commodity Credit Corporation

Feed Grain Donations; Blackfeet Indian Reservation of Browning, MT

AGENCY: Agricultural Stabilization and Conservation Service, USDA, and Commodity Credit Corporation, USDA.

ACTION: Notice.

SUMMARY: The Executive Vice-President, Commodity Credit Corporation (CCC) and the Administrator, Agricultural Stabilization and Conservation Service, is announcing that the reservation and grazing land of the Blackfeet Tribe of the Blackfeet Indian Reservation, Browning, Montana, is an acute distress area and that CCC-owned feed grain will be donated to needy livestock owners on the reservation.

FOR FURTHER INFORMATION CONTACT: Margie L. Hartman, Livestock Programs Branch, Agricultural Stabilization and Conservation Service, P.O. Box 2415, Washington, DC 20013, 202–720–6235.

SUPPLEMENTARY INFORMATION: Pursuant to the authority set forth in section 407 of the Agricultural Act of 1949, as amended (7 U.S.C. 1427), Executive Order 11336, and the delegation of authority in 7 CFR 2.65(21), notice is being given that I have determined that:

1. The chronic economic distress of the needy members of the Blackfeet Tribe (the Tribe) of the Blackfeet Indian Reservation of Browning, Montana, has been materially increased and become acute because of severe and prolonged drought, thereby creating a serious shortage of feed and causing increased economic distress. This reservation is designated for Indian use and is utilized by members of the Tribe for grazing purposes.

2. The use of feed grain or products thereof made available by the Commodity Credit Corporation (CCC) for livestock feed for such needy members of the Tribe will not displace or interfere with normal marketing of agricultural commodities.

3. Based on the above determinations, I hereby declare the reservation and grazing land of the Tribe to be acute distress areas and authorize the donation of feed gain owned by the CCC to livestock owners who are determined by the Bureau of Indian Affairs, United States Department of the Interior, to be needy members of the Tribe utilizing such lands. These donations by the CCC may commence upon January 15, 1993, and shall be made available through May 29, 1993, or such other date as may be stated in a notice issued by the Administrator, Agricultural Stabilization and Conservation Service.

Signed at Washington, DC, on January 21, 1993.

Keith D. Bjerk,

Administrator, Agricultural Stabilization and Conservation Service, and Executive Vice President, Commodity Credit Corporation.

[FR Doc. 93–1968 Filed 1–26–93; 8:45 am]

BILLING CODE 3410–05–M

Food and Nutrition Service

National Advisory Council on Commodity Distribution; Meeting

AGENCY: Food and Nutrition Service, USDA.

ACTION: Notice.

SUMMARY: A meeting of the National Advisory Council on Commodity Distribution is scheduled for March 16-17, 1993. The council, established by the Commodity Distribution Reform Act and WIC Amendments of 1987 (Pub. L. 100–237) meets biannually to advise the Secretary of Agriculture regarding the development of commodity specifications and other program improvements.

DATES: The meeting will take place on March 16 and 17 from 8:30 a.m. to 5 p.m.

ADDRESSES: The meeting will be held at the Ramada Renaissance Hotel, 950 North Stafford Street, Arlington, Virginia 22203.

FOR FURTHER INFORMATION CONTACT: Ms. Beverly King, Acting Chief, Commodity Processing Branch, Food Distribution Division, Food and Nutrition Service, U.S. Department of Agriculture, Alexandria, Virginia 22302, (703) 305–2680.

SUPPLEMENTARY INFORMATION: This is the eighth meeting of the National Advisory Council on Commodity Distribution, as established by section 3(a)(3) of Public Law 100–237. The purpose of the council is to provide guidance to the Secretary of Agriculture on regulations and policy development for the Food Distribution Programs with primary emphasis on specifications for commodities. If time permits, the general public will be allowed to participate in the discussions. The agenda will be available 15 days prior to the meeting. Requests for the agenda should be sent to Mr. Vernon R. Morgan, Executive Secretary, National Advisory Council on Commodity Distribution, USDA, Food and Nutrition Service, 3101 Park Center Drive, room 502, Alexandria, Virginia 22302. Comments may be filed with Vernon R. Morgan before or after the meeting.

Dated: January 19, 1993.

Phyllis Gault,

Acting Administrator.

[FR Doc. 93–1926 Filed 1–26–93; 8:45 am]

BILLING CODE 3410–30–M

DEPARTMENT OF COMMERCE

International Trade Administration

[A–351–811]

Final Determination of Sales at Less Than Fair Value: Certain Hot-Rolled Lead and Bismuth Carbon Steel Products From Brazil

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: January 27, 1993.

FOR FURTHER INFORMATION CONTACT: Nancy M. Decker or Linda L. Pasden, 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.

Final Determination

We determine that imports of certain hot-rolled lead and bismuth carbon steel products from Brazil are being, or are likely to be, sold in the United States a

less than fair value, as provided in section 735 of the Tariff Act of 1930, as amended (the Act). Because Mannesmann did not provide requested information and refused to cooperate with the Department in its investigation, we have based our determination on the best information available (BIA), in accordance with section 776 of the Act. In this instance, because Mannesmann refused to cooperate, we have determined the BIA to be the petitioners' highest adjusted margin. (The price-to-price margins found in the petition are the only information available.) The BIA margin is shown in the "Suspension of Liquidation" section of this notice.

Case History

Since the preliminary determination in this investigation on November 9, 1992 (57 FR 54219, November 17, 1992), no events have occurred.

Scope of Investigation

The products subject to this investigation are hot-rolled bars and rods of nonalloy or other alloy steel, whether or not descaled, containing by weight 0.03 percent or more of lead or 0.05 percent or more of bismuth, in coils or cut lengths, and in numerous shapes and sizes. Excluded from the scope of this investigation are other alloy steels (as defined by the Harmonized Tariff Schedule of the United States (HTSUS) Chapter 72, note 1 (f)), except steels classified as other alloy steels by reason of containing by weight 0.4 percent or more of lead, or 0.1 percent or more of bismuth, tellurium, or selenium. Also excluded are semi-finished steels and flat-rolled products. Most of the products covered in this investigation are provided for under subheadings 7213.20.00.00 and 7214.30.00.00 of the HTSUS. Small quantities of these products may also enter the United States under the following HTSUS subheadings: 7213.31.30.00, 7213.31.60.00; 7213.39.00.30, 7213.39.00.60, 7213.39.00.90; 7214.40.00.10, 7214.40.00.30, 7214.40.00.50; 7214.50.00.10, 7214.50.00.30, 7214.50.00.50; 7214.60.00.10, 7214.60.00.30, 7214.60.00.50; and 7228.30.80.00. Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of this proceeding is dispositive.

Period of Investigation

The period of investigation (POI) is November 1, 1991 through April 30, 1992.

Such or Similar Comparisons

We have determined that all the products covered by this investigation constitute a single category of such or similar merchandise.

Best Information Available

As mentioned above, we used BIA as required by section 776(c) of the Act because Mannesmann did not provide requested information and did not cooperate with the Department in its investigation. We determined that BIA was information submitted in the petition. Because Mannesmann refused to cooperate, we have determined the BIA to be the petitioners' highest adjusted margin.

Continuation of Suspension of Liquidation

We are directing the Customs Service to continue to suspend liquidation of all entries of the subject merchandise from Brazil that are entered, or withdrawn from warehouse, for consumption on or after November 17, 1992, the date of publication of our preliminary determination notice in the **Federal Register**, as originally ordered in accordance with section 733(d)(1) of the Act.

The product under investigation is also subject to a countervailing duty investigation. The Department has determined that there was an export subsidy program, but this program was terminated on December 31, 1991. In the final countervailing duty determination, we have taken into account that program wide change and have set the cash deposit rate at zero for that program. Accordingly, no adjustment to the dumping margin is required.

The Customs Service shall require a cash deposit or bond equal to the estimated amount by which the FMV of the merchandise subject to this investigation exceeds the U.S. price, as shown below. This suspension of liquidation will remain in effect until further notice. The dumping margins are as follows:

Producer/manufacturer/exporter	Margin percentage
Mannesmann	148.12
All others	148.12

ITC Notification

In accordance with section 735(d) of the Act, we have notified the ITC of our determination.

Notification to Interested Parties

This notice also 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 determination is published pursuant to section 735(d) of the Act and 19 CFR 353.20(a)(4).

Dated: January 19, 1993.

Alan M. Dunn,

Assistant Secretary for Import Administration.

[FR Doc. 93–1901 Filed 1–26–93; 8:45 am]

BILLING CODE 3510–DS–M

[A–427–804]

Final Determination of Sales at Less Than Fair Value: Certain Hot-Rolled Lead and Bismuth Carbon Steel Products From France

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: January 27, 1993.

FOR FURTHER INFORMATION CONTACT: Edward Easton or Stephen Alley, Office of Antidumping Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–1777, or (202) 482–5288, respectively.

Final Determination

We determine that imports of certain hot-rolled lead and bismuth carbon steel products from France are being, or are likely to be, sold in the United States at less than fair value, as provided in section 735 of the Tariff Act of 1930, as amended (the Act). Because Usinor Sacilor (Usinor), the sole respondent in this case, failed to provide adequate information in a timely manner, we have based our determination on the best information otherwise available (BIA). In this instance, because Usinor has requested the return or destruction of all of its submissions during the course of the investigation and was subject to a cost of production (COP) investigation as well, we have determined BIA to be the highest of the margins that resulted from the fair value comparisons using constructed values for each of the transactions provided in the petition, as it was amended on April 27, 1992. The BIA margin is shown in the "Suspension of Liquidation" section of this notice.

Case History

Since the preliminary determination in this investigation on September 21,

1992 (57 FR 44556, September 28, 1992), the following events have occurred.

On September 21, 1992, Usinor submitted additional sales and COP supplemental responses. However, because both the COP information and the constructed value information contained in these responses were calculated using incorrect methodologies, the Department decided to not verify Usinor's submissions. (*See* the October 20, 1992, Memorandum from Marie E. Parker, Director, Office of Accounting, to Francis J. Sailer, Deputy Assistant Secretary for Investigations.) Accordingly, the verification of Usinor's submissions was cancelled.

On October 22, 1992, Usinor requested that the Department postpone the final determination for 60 days, in accordance with section 735(a)(2) of the Act. On November 6, 1992, the Department granted Usinor's request, in part, and postponed the date of its final determination from December 18, 1992, until January 11, 1993 (57 FR 53691, November 12, 1992). On December 17, 1992, Usinor requested a 25-day extension of the final determination. On January 11, 1993, the Department postponed the final determination until January 19, 1993 (58 FR 4981, January 19, 1993).

On November 12, 1992, Usinor requested that the Department return its submissions responding to the Department's antidumping questionnaire. On November 23, 1992, Usinor amended its request to provide for the destruction of these submissions in lieu of returning them to the company.

On November 13, 1992, petitioners filed their case brief and on November 19, 1992, both petitioners and Usinor filed their rebuttal briefs.

On November 19, 1992, petitioners and respondent withdrew their requests for a public hearing.

Following its receipt of the parties' briefs, the Department made a telephone inquiry of Usinor's counsel as to whether Usinor still wanted the Department to act on its request for the destruction of its submissions. The Department informed counsel of the adverse effect that the granting of Usinor's request would have on the BIA rate assigned to the company. Counsel informed the Department that Usinor still wanted the Department to proceed with the destruction of its submissions.

Scope of Investigation

The products subject to this investigation are hot-rolled bars and rods of nonalloy or other alloy steel, whether or not descaled, containing by weight 0.03 percent or more of lead or 0.05 percent or more of bismuth, in coils or cut lengths, and in numerous shapes and sizes. Excluded from the scope of this investigation are other alloy steels (as defined by the Harmonized Tariff Schedule of the United States (HTSUS) Chapter 72, note 1 (f)), except steels classified as other alloy steels by reason of containing by weight 0.4 percent or more of lead, or 0.1 percent or more of bismuth, tellurium, or selenium. Also excluded are semi-finished steels and flat-rolled products. Most of the products covered in this investigation are provided for under subheadings 7213.20.00.00 and 7214.30.00.00 of the HTSUS. Small quantities of these products may also enter the United States under the following HTSUS subheadings: 7213.31.30.00, 60.00; 7213.39.00.30, 00.60, 00.90; 7214.40.00.10, 00.30, 00.50; 7214.50.00.10, 00.30, 00.50; 7214.60.00.10, 00.30, 00.50; and 7228.30.80.00. Although the HTSUS subheadings are provided for convenience and customs purposes, our description of the scope of this proceeding is dispositive.

Period of Investigation

The period of investigation (POI) is November 1, 1991, through April 30, 1992.

Such or Similar Comparisons

We have determined that all the products covered by this investigation constitute a single category of such or similar merchandise.

Fair Value Comparisons

To determine whether sales of the subject merchandise from France to the United States were made at less than fair value, we compared the United States price (USP) to the foreign market value (FMV), as specified in the "United States Price" and "Foreign Market Value" sections of this notice. As mentioned above, we used BIA as required by section 776(c) of the Act because Usinor did not provide adequate information in a timely manner for purposes of the final determination. We determined that BIA was information submitted in the amended petition. Because Usinor requested the destruction of its submissions and the Department has no choice but to treat the company as an uncooperative respondent, we have determined the BIA to be the highest of the margins in the amended petition.

United States Price

We based USP on information provided in the petition. Petitioners provided a U.S. price based on a quoted transaction price for cut-to-length products sold to a U.S. customer on a delivered price basis. Petitioners adjusted the price by deducting estimated costs for foreign inland freight, foreign port and loading fees, ocean freight and insurance, customs duties, U.S. terminal and unloading fees, and estimated costs for U.S. inland freight.

Foreign Market Value

We based FMV on constructed value information provided in the petition and the April 27, 1992, amendment to the petition. Petitioners alleged that the home market prices as well as the third-country sales or offers of sales are at prices below the cost of production and, therefore, should be discarded in favor of constructed value. Accordingly, petitioners calculated an FMV on the basis of the constructed value for the transaction listed in the petition, as amended.

Interested Party Comments

Although numerous comments were submitted by petitioners, they are not being addressed here because of our decision to reject Usinor's submissions and base this determination on BIA. Only the comments concerning the application of BIA are addressed below.

Comment 1

In their case brief, petitioners supported the Department's use of BIA. In their rebuttal brief, where they were able to address Usinor's request to withdraw its submissions responding to the Department's antidumping questionnaire, petitioners specifically argue that the Department should treat Usinor as an uncooperative respondent and use as BIA the highest margin in the April 27, 1992, amendment to the petition. The highest margin in the amended petition is 75.08 percent.

In its rebuttal brief, Usinor contended that the margins alleged against French merchandise in the petition are "* * * unduly high and are not, in any event, reasonable proxies for Usinor Sacilor's antidumping margin." Usinor proposed that the Department fashion a BIA margin for Usinor from the margins for the respondents in the companion German and United Kingdom investigations of the subject merchandise.

DOC Position

In determining what rate to use as BIA, the Department follows a two-tiered methodology. The Department normally assigns lower rates for those respondents who cooperated in an

investigation and higher rates for respondents who did not. See Final Determination of Sales at Less Than Fair Value: Circular Welded Non-Alloy Steel Pipe From Brazil, 57 FR 42940 (September 17, 1992).

In this investigation, Usinor responded to the Department's requests for information; however, as noted above, the errors and deficiencies in its submissions were so pervasive as to make its responses unusable, and verification was cancelled. Usinor subsequently requested the return or destruction of all of its submissions during the course of the investigation, as discussed above.

In light of Usinor's continued request for the destruction of its submissions responding to the Department's antidumping questionnaire, a request that we are granting, the Department no longer has any choice but to treat Usinor as an uncooperative respondent and assign it the highest BIA rate. The destruction of Usinor's submissions has the consequence of removing from the administrative record any basis for showing, either now or on appeal, that Usinor had been cooperative during the investigation. See, *e.g., Smith Corona Corp.* v. *United States*, 796 F. Supp. 1532 (CIT 1992); Final Determination of Sales at Less than Fair Value; Steel Wire Rope from India, 56 FR 46285 (September 11, 1991); Final Determination of Sales at Less than Fair Value; Certain Small Business Telephone Systems from Japan, 54 FR 42541 (October 17, 1989); Final Determination of Sales at Less than Fair Value; Antifriction Bearings and Parts Thereof from the Federal Republic of Germany, 54 FR 18992 (May 3, 1992).

Even absent Usinor's request that the Department return or destroy its submissions, we would have rejected Usinor's suggestions to calculate a BIA margin based upon those calculated for other European producers. It is entirely speculative for Usinor to conclude that the average of the margins contained in the April 27, 1992, amendment to the petition is "unduly high." Usinor ensured that an accurate margin calculation would not be possible when it failed to submit the information necessary to calculate one. Moreover, the purpose of a BIA margin is not to find a "reasonable proxy" for an accurate antidumping margin. Rather, the principal purposes of a BIA margin are to avoid rewarding a noncompliant respondent in the current proceeding and to persuade the respondent to furnish timely, complete, and accurate data in the administrative review, should there be one.

Continuation of Suspension of Liquidation

In accordance with section 733(d)(1) of the Act, we are directing the Customs Service to continue to suspend liquidation of all entries of the subject merchandise from France that are entered, or withdrawn from warehouse, for consumption on or after September 28, 1992, the date of publication of our preliminary determination notice in the **Federal Register**.

The Customs Service shall require a cash deposit or bond equal to the estimated amount by which the FMV of the merchandise subject to this investigation exceeds the U.S. price, as shown below. This suspension of liquidation will remain in effect until further notice. The dumping margins are as follows:

Producer/manufacturer/exporter	Margin percentage
Usinor Sacilor	75.08
All others	75.08

ITC Notification

In accordance with section 735(d) of the Act, we have notified the ITC of our determination.

Notification to Interested Parties

This notice also 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 determination is published pursuant to section 735(d) of the Act and 19 CFR 353.20(a)(4).

Dated: January 19, 1993.

Alan M. Dunn,

Assistant Secretary for Import Administration.

[FR Doc. 93–1902 Filed 1–26–93; 8:45 am]

BILLING CODE 3510–DS–M

[(A–428–811)]

Final Determination of Sales at Less Than Fair Value: Certain Hot-Rolled Lead and Bismuth Carbon Steel Products From Germany

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: January 27, 1993.

FOR FURTHER INFORMATION CONTACT: Cynthia Thirumalai or Steve Alley, Office of Antidumping Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–4087, or (202) 482–5288, respectively.

Final Determination

We determine that imports of certain hot-rolled lead and bismuth carbon steel products from Germany are being, or are likely to be, sold in the United States at less than fair value, as provided in section 735 of the Tariff Act of 1930, as amended (the Act). We have used the best information available (BIA) in making our final determination (*see* section on Best Information Available). The BIA margin is shown in the "Suspension of Liquidation" section of this notice.

Case History

Since our notice of postponement of the final determination in this investigation (57 FR 53691, November 12, 1992), the following events have occurred.

Petitioners and respondent in this proceeding submitted case briefs and rebuttal briefs on November 16 and 20, 1992, respectively. On November 24, 1992, a public hearing was held. Respondent submitted additional comments on December 4, 1992, to which petitioners objected on December 8, 1992. On December 11, 1992, the Department informed respondent that its December 4, 1992, submission was untimely filed and, as a result, was rejected and returned.

On December 17, 1992, Saarstahl requested a 25-day extension of the final determination in this investigation. On January 11, 1993, the Department postponed the final determination until January 19, 1993 (58 FR 4981, January 19, 1993).

Scope of Investigation

The products subject to this investigation are hot-rolled bars and rods of nonalloy or other alloy steel, whether or not descaled, containing by weight 0.03 percent or more of lead or 0.05 percent or more of bismuth, in coils or cut lengths, and in numerous shapes and sizes. Excluded from the scope of this investigation are other alloy steels (as defined by the Harmonized Tariff Schedule of the United States (HTSUS) Chapter 72, note 1 (f)), except steels classified as other alloy steels by reason of containing by weight 0.4 percent or more of lead, or 0.1 percent or more of bismuth, tellurium, or selenium. Also excluded are semi-finished steels and flat-rolled products. Most of the products covered in this investigation are provided for under subheadings

7213.20.00.00 and 7214.30.00.00 of the HTSUS.

Small quantities of these products may also enter the United States under the following HTSUS subheadings: 7213.31.30.00, 60.00; 7213.39.00.30, 00.60, 00.90; 7214.40.00.10, 00.30, 00.50; 7214.50.00.10, 00.30, 00.50; 7214.60.00.10, 00.30, 00.50; and 7228.30.80.00. Although the HTSUS subheadings are provided for convenience and customs purposes, our description of the scope of this proceeding is dispositive.

Period of Investigation

The period of investigation (POI) is November 1, 1991, through April 30, 1992.

Best Information Available

Because the results of our verification of the information provided by Saarstahl AG (Saarstahl), the sole respondent in this case, showed the information to be unusable for purposes of calculating a final estimated dumping margin, we have based our determination on BIA (see Memorandum from D. Binder and M. Parker to R. Moreland, December 14, 1992). In spite of its failed verification, we believe Saarstahl's level of participation warrants that it be considered a cooperative respondent. Accordingly, given that Saarstahl was subject to a cost of production (COP) investigation, we have assigned to Saarstahl a BIA margin equal to the average of the margins that resulted from the fair value comparisons using constructed value (CV) for each of the transactions provided in the petition, as amended on April 27 and 28, 1992.

Such or Similar Comparisons

We have determined that all the products covered by this investigation constitute a single category of such or similar merchandise.

Fair Value Comparisons

To determine whether sales of the subject merchandise from Germany to the United States were made at less than fair value, we compared the United States price (USP) to foreign market value (FMV) as specified in the "United States Price" and "Foreign Market Value" sections of this notice. As mentioned above, we used BIA as required by section 776(c) of the Act because Saarstahl's submitted information was found to be unusable for purposes of calculating a final estimated dumping margin.

United States Price

We based USP on information provided in the petition. Petitioners provided U.S. prices based on quoted transaction prices and offers for sale for both coil and cut-to-length products. The prices and offers were on a F.O.B., port-of-entry basis and, for some customers, on a delivered basis. Petitioners adjusted the F.O.B. prices by deducting amounts for foreign inland freight, foreign truck loading fees, ocean freight and insurance, U.S. vessel unloading, U.S. wharfage, and U.S. customs duties. For prices quoted on a delivered basis, petitioners also deducted amounts for U.S. inland freight and U.S. truck unloading expenses. We recalculated some amounts for foreign truck unloading, foreign inland freight, U.S. vessel unloading and U.S. wharfage expenses because petitioners did not properly convert these amounts to a per-short ton basis. In addition, we recalculated U.S. duties in all cases to correct for a methodological error.

Foreign Market Value

We based FMV on CV information that was provided in the petition and the April 27 and 28, 1992, amendments to the petition. (See our notice of initiation (57 FR 19881, May 8, 1992) for a description of the CV calculation.)

Verification

As provided in section 776(b) of the Act, we attempted to verify the information provided by Saarstahl by using standard verification procedures, including the examination of relevant sales and financial records, and selection of original source documentation containing relevant information.

Interested Party Comments

Comment 1

Petitioners argue that the Department should reject Saarstahl's responses in their entirety and base the final determination on BIA for the following reasons: (1) Saarstahl did not provide the Department with complete sales reporting as seen by its failure to report significant quantities of home market sales and some U.S. sales; (2) the information provided by Saarstahl was replete with errors and discrepancies; and (3) Saarstahl impeded the investigation by not submitting information in a timely manner in the form requested, and by being unprepared and unresponsive at verification—thus, preventing the Department from adequately confirming the accuracy and completeness of its responses.

According to petitioners, while Saarstahl's failure to report all home market and U.S. sales, in and of itself, warrants the use of BIA, when this omission is combined with the numerous discrepancies, errors in methodology, and miscalculations found at verification regarding both sales and COP information, the Department is left with no other option than to resort to the use of BIA in making its final determination. While the extent of Saarstahl's lack of preparation at verification amounted to uncooperative behavior, petitioners concede that Saarstahl has "substantially cooperated with the agency's requests for information." Accordingly, petitioners recommend that the Department assign, as BIA, the higher of the estimated margin from the preliminary determination, or the average margin from the petition.

Saarstahl argues that the use of BIA is reserved for instances in which a respondent has been uncooperative or has failed to provide usable information to the Department. According to Saarstahl, when a respondent has generally supported its methodology, the discovery of minor errors does not merit rejection of the response and the use of BIA (see Tapered Roller Bearings Four Inches or Less in Outside Diameter and Certain Components Thereof from Japan: Final Results of Antidumping Duty Administrative Review) (55 FR 38720, 38723, September 20, 1990). Saarstahl states that it has cooperated fully in this investigation. In addition, Saarstahl contends that the errors and discrepancies found at verification were minor in nature or would have no impact on the calculation of the final dumping margin.

Saarstahl argues that its failure to report home market sales of products that were of different German DIN grade designations than those which would have been assigned to products sold in the United States, had they been sold in Germany, resulted in harmless error. Since the Department prefers the use of identical merchandise over similar merchandise for purposes of comparison (see Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof from France (57 FR 28360, June 24, 1992), Saarstahl argues that the Department should limit its analysis to comparisons of identical merchandise in calculating the final estimated dumping margin. Saarstahl cites the Final Determination of Sales at Less Than Fair Value: Fresh Kiwifruit from New Zealand (Kiwifruit) (57 FR 13695, 13698, April 27, 1992), in which the Department found that:

[T]he percentage of U.S. sales matched to identical merchandise in Japan was

sufficiently high (over 60 percent) so that comparisons with non-identical merchandise or with CV were unnecessary.

Accordingly, Saarstahl contends that limiting the analysis to identical home market merchandise is justified in this instance since sales of identical merchandise constituted over 90 percent—well above the requisite 60 percent.

Should the Department decide not to limit its analysis to sales of identical merchandise, Saarstahl argues that the best information available for the missing sales that were of the same chemical composition as U.S. sales would be the weighted-average of the reported sales.

DOC Position

We agree with petitioners that the use of BIA is warranted in this instance. In and of itself, Saarstahl's incomplete reporting of home market sales requires the use of BIA. When this is combined with Saarstahl's incorrect reporting of the date of sale for a substantial number of home market sales, numerous errors in its U.S. sales listing, large number of inconsistencies in reported charges and adjustments for both U.S. and home market sales, and unsubstantiated and unusable cost data, we find that any calculation of a final estimated dumping margin based on information submitted by Saarstahl would be meaningless.

In addition, we do not agree with Saarstahl's contention that its reporting of products it deemed to be identical was sufficient. Saarstahl's reference to Kiwifruit on this issue is misplaced since the respondent in that investigation did report sales of similar merchandise which the Department later decided to exclude from its analysis. We also disagree with Saarstahl's proposal to assign, as BIA, the weighted-average price of reported sales to the unreported sales of products that had the same chemical composition as U.S. products. Acceptance of this proposal would hinder the Department's ability to obtain complete sales information by encouraging future respondents to report only certain home market sales in the hope that reported sales would be used as surrogates for unreported sales.

We agree with both Saarstahl and petitioners that Saarstahl did substantially comply with the Department's requests for information and that it was not uncooperative at verification. Accordingly, we have assigned Saarstahl the BIA rate for a cooperative respondent, *i.e.*, either the margin calculated for the preliminary determination, or the average of the margins in the petition, whichever is higher (see e.g., Preliminary Determination of Sales at Less Than Fair Value: Circular Welded Non-Alloy Steel Pipe from Taiwan (57 FR 17892, April 28, 1992). In this case, we have used the average margin pertaining to Saarstahl in the petition.

Other Comments

Petitioners and Saarstahl made additional comments on various charges and adjustments contained in sales listing, and the allocation of certain items in the COP calculation. Since we are basing our final determination on BIA, these comments are now moot. Accordingly, no response on behalf of the Department is required.

Continuation of Suspension of Liquidation

In accordance with section 735 of the Act, we are directing the Customs Service to continue to suspend liquidation of all entries of the subject merchandise from Germany that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. The Customs Service shall require a cash deposit or bond equal to the estimated amount by which the FMV of the merchandise subject to this investigation exceeds the U.S. price, as shown below. This suspension of liquidation will remain in effect until further notice. The average dumping margins are as follows:

Producer/manufacturer/exporter	Average margin percentage
Saarstahl AG	85.05
All others	85.05

ITC Notification

In accordance with section 735(d) of the Act, we have notified the ITC of our determination.

Notification to Interested Parties

This notice also 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 CFR 353.34(d). Failure to comply is a violation of the APO.

This determination is published pursuant to section 735(d) of the Act and 19 CFR 353.20(a)(4).

Dated: January 19, 1993.

Alan M. Dunn,

Assistant Secretary for Import Administration.

[FR Doc. 93–1903 Filed 1–26–93; 8:45 am]

BILLING CODE 3510–05–M

[A–412–810]

Final Determination of Sales at Less Than Fair Value: Certain Hot-Rolled Lead and Bismuth Carbon Steel Products From the United Kingdom

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: January 27, 1993.

FOR FURTHER INFORMATION CONTACT: Michael Ready, Office of Antidumping Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–2613.

Final Determination

We determine that certain hot-rolled lead and bismuth carbon steel products from the United Kingdom are being, or are likely to be, sold in the United States at less than fair value, as provided in section 735 of the Tariff Act of 1930, as amended (the Act). The estimated margins are shown in the "Continuation of Suspension of Liquidation" section of this notice.

Case History

Since publication of the preliminary determination on September 28, 1992 (57 FR 44554), the following events have occurred.

Verification of responses to the Department of Commerce's (the Department's) questionnaire regarding sales information took place in the United Kingdom on October 8 through 12, 1992.

Verification of respondent's responses to the Department's questionnaire regarding cost of production (COP) information took place in the United Kingdom on October 12 through 15, 1992.

We received requests for a public hearing from Inland Steel Industries, including the Inland Steel Bar Company, and the Bar, Rod & Wire Division of Bethlehem Steel Corporation, petitioners in the investigation, and from UES Holdings Limited and United Engineering Steels Limited (UES), respondent in the investigation, on September 23, 1992. At the request of UES, on November 6, 1992, the Department postponed the

final determination in this case until January 11, 1993 (57 FR 53691, November 12, 1992).

Case briefs were filed by petitioners and respondent on November 16, 1992. Reply briefs were filed on November 20, 1992. A public hearing was held on November 24, 1992.

On December 17, 1992, UES requested a 25-day extension of the final determination in this investigation. On January 11, 1993, the Department postponed the final determination until January 19, 1993.

Scope of the Investigation

The products covered by this investigation are hot-rolled bars and rods of nonalloy or other alloy steel, whether or not descaled, containing by weight 0.03 percent or more of lead or 0.05 percent or more of bismuth, in coils or cut lengths, and in numerous shapes and sizes. Excluded from the scope of this investigation are other alloy steels (as defined by the Harmonized Tariff Schedule of the United States (HTSUS) Chapter 72, note 1(f)), except steels classified as other alloy steels by reason of containing by weight 0.4 percent or more of lead, or 0.1 percent or more of bismuth, tellurium, or selenium. Also excluded are semi-finished steels and flat-rolled products. Most of the products covered in this investigation are provided for under subheadings 7213.20.00.00 and 7214.30.00.00 of the HTSUS. Small quantities of the following products may also enter the United States under the following HTSUS subheadings: 7213.31.30.00, 60.00; 7213.39.00.30, 00.60, 00.90; 7214.40.00.10, 00.30, 00.50; 7214.50.00.10, 00.30, 00.50; 7214.60.00.10, 00.30, 00.50; and 7228.30.80.00. Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of this proceeding is dispositive.

Period of Investigation

The period of investigation (POI) is November 1, 1992, through April 30, 1992.

Such or Similar Comparisons

We have determined that all the products covered by this investigation constitute a single category of such or similar merchandise. Where there were no sales of identical merchandise in the home market to compare to U.S. sales, we made comparisons on the basis of the following criteria listed in order of importance: (1) Chemical composition; (2) shape; (3) cut (coil or cut length); (4) size; and (5) grade. We made adjustments for differences in the physical characteristics of the merchandise, in accordance with section 773(a)(4)(C) of the Act.

Fair Value Comparisons

To determine whether sales of certain hot-rolled lead and bismuth carbon steel products from the United Kingdom to the United States were made at less than fair value, we compared the United States price (USP) to the foreign market value (FMV), as specified in the "United States Price" and "Foreign Market Value" sections of this notice.

Related Party Issue

UES disclosed in a footnote to its response to Section A of the questionnaire that it "understands that a company called Allied Steel and Wire (ASW), which is a 20 percent subsidiary of British Steel plc, may have made sales of the subject merchandise in the POI." British Steel and GKN plc, each own 50 percent of the common stock in UES. ASW was not served a questionnaire at the outset of the investigation because (1) we were able to capture more than 60 percent of the exports of the subject merchandise, (*see* 19 CFR 353.42(b)) by serving UES only, and (2) we were unaware of the possible relationship between UES and ASW.

The Department preliminarily determined, based on the information available at the time, that a sufficiently intertwined relationship between UES and ASW did not exist to warrant the reporting of ASW sales information by the respondent. We examined the issue further at verification. When sales between UES and ASW were reviewed, the net price charged to ASW was slightly higher than that charged to other unrelated customers. Additionally, the issue of British Steel control of the ASW board of directors was examined, along with the coordination of production issued discussed in the Department's preliminary determination were examined. (See FR 57 44554, 44555.) We found no information which would lead us to change our preliminary determination. Thus ASW sales are not included in the analysis for the final determination.

United States Price

We calculated USP using the methodology described in the preliminary determination except as follows.

For all sales, we deducted the amount for ocean freight reported by UES rather than an amount based on the best information available.

Foreign Market Value

We calculated FMV using the methodology described in the preliminary determination except for the changes noted in the "Price-to-Price" and "Constructed Value" sections of this notice below.

Cost of Production

Based on petitioners' allegations, and in accordance with section 773(b) of the Act, we investigated whether UES had home market sales that were made at less than their COP.

If over 90 percent of respondent's sales of a given model were at prices above the COP, we did not disregard any below-cost sales because we determined that the respondent's below-cost sales were not made in substantial quantities over an extended period of time. If between ten and 90 percent of respondent's sales of a given model were at prices above the COP, we disregarded only the below-cost sales, if they were found to be made over an extended period of time. Where we found that more than 90 percent of respondent's sales were at prices below the COP, we disregarded all sales for that model and calculated FMV based on constructed value (CV). In such cases, we determined that the respondent's below-cost sales were made in substantial quantities over an extended period of time and at prices that would not permit recovery of all costs within a reasonable period of time in the normal course of trade.

In order to determine whether home market prices were above the COP, we calculated the COP based on the sum of a respondent's cost of materials, fabrication, general expenses, and packing.

We compared home market selling prices, net of movement charges, rebates, and invoice corrections, to each product's COP. We found that for some products, more than 90 percent of the sales were at prices above the COP. For other products, there were fewer than 10 percent of sales at prices above the COP. For the remainder of the products, between 10 and 90 percent of the sales were at prices above the COP.

Price-To-Price Comparisons

We made price-to-price comparisons using the methodology described in the preliminary determination, with the following exceptions.

We made a circumstances of sale adjustment for differences in credit insurance expense. Verification revealed that for U.S. sales, credit insurance charges are assessed on a sale-by-sale basis, while in the home market, a

single global amount is assessed, regardless of the level of sales. We therefore determined that credit insurance is a direct expense in the U.S. market, and an indirect expense in the home market. Accordingly, we made this adjustment by adding the amount of credit insurance assessed on each U.S. sale to the FMV.

In cases where the only difference between products is the grade code, we based the adjustment for differences in physical characteristics on differences in material costs only. *See* discussion at Comment 2 below.

We made comparisons between U.S. sales with a total order quantity of 25 metric tons or more with home market sales with a total order quantity of 25 metric tons or more, and between U.S. sales with a total order quantity of less than 25 metric tons with home market sales with a total order quantity of less than 25 metric tons. See discussion at Comment 10 below.

We recalculated U.S. credit expense by adding 15 days, not 30 days, to the payment period for each U.S. sale. See discussion at Comment 11 below.

We did not exclude from our analysis home market sales to related end-users. See discussion at Comment 12 below.

Constructed Value

For those products without an adequate number of sales at prices above the COP, we based FMV on CV. We calculated the CV based on the sum of the cost of materials, fabrication, general expenses, and U.S. packing cost. In accordance with section 773(e)(1)(B)(i) of the Act, we included in CV the greater of the company's reported general expenses or the statutory minimum of ten percent of cost of manufacture (COM). For profit, we used the actual profit earned by UES because the actual figure was higher than the statutory minimum of eight percent of the sum of COM and general expenses, in accordance with section 773(e)(1)(B)(ii) of the Act. We made circumstance of sale adjustments, where appropriate, for differences in direct selling expenses including credit, credit insurance, warranty, and presale warehousing.

Currency Conversion

We made currency conversions based on the official exchange rates in effect on the dates of the U.S. sales as certified by the Federal Reserve Bank of New York.

Verification

As provided in section 776(b) of the Act, we verified information provided by respondent by using standard verification procedures, including the examination of relevant sales and financial records, and selection of original source documentation containing relevant information.

Interested Party Comments

Comment 1

Petitioners argue that we should match as identical all products which could be sold under the same national standard grade. In other words, petitioner would have us match two products if they both satisfied the specifications for American Iron and Steel Institute grade C12L14, for example, regardless of any differences in the chemical compositions of the two products. Petitioners base their argument in part, on their belief, based on their analysis of several verification exhibits, that in three cases, the product actually delivered did not meet the chemical specifications of the grade identified in the response to the questionnaire.

Respondent argues that the national grade codes do not adequately define the products and that there are commercially significant differences in the chemical compositions of the products they produce which fall under the same national grade code. Furthermore, respondent has pointed out that petitioners' analysis of the verification reports with respect to the three cases discussed above is faulty—that in fact, the delivered products did meet the specifications of the grade codes listed in the response to the questionnaire. At the public hearing, petitioners conceded that their analysis on this point was indeed faulty.

DOC Position

We agree with respondent. We have used the same model matching criteria we used for the preliminary determination. Verification established that UES's customers order, and UES produces, products in which the chemical composition specified by the relevant national grade code is modified. In other words, the product differences claimed by UES are commercially significant and are not incidental—they are designed into the product. Furthermore, as stated above, petitioners' allegation that delivered products do not always meet the stated specifications is incorrect. Finally, it should be noted that in Appendix V of the questionnaire, we stated that "In order for merchandise to be considered identical, all physical characteristics, not jut those which we have identified, must be the same". If respondent had initially matched using the "national grade code" criterion advocated by petitioners, and ignored any other physical differences, the questionnaire response would have been deficient.

Comment 2

Petitioners argue that in cases where the only difference between products is in the grade code, the Department should allow an adjustment for differences in physical characteristics, pursuant to 19 CFR 353.57, only with respect to differences in material costs. Petitioners allege that UES claims substantial adjustments for costs that are unrelated to any physical differences in the merchandise.

Respondent argues that its verified adjustments were calculated in accordance with the Department's instructions which require that for each difference in merchandise claimed, the respondent is to separately identify differences in material costs, labor, and variable overhead expenses.

DOC Position

We agree with petitioners. A substantial portion of the differences in the labor and overhead components of the variable cost of manufacturing resulted from timing differences and plant efficiency differences. Based upon respondent's methodology, two products which had different material inputs, but went through the exact same fabrication processes, had varying amounts for labor and overhead. These differences arose from the fact that the two products were not necessarily manufactured at the same time or in the same plant. If one product was manufactured at the beginning of the POI and another was manufactured at the end of the POI, the respondent's methodology for calculating manufacturing costs for a very specific product resulted in labor cost differences. Additionally, if the two products were manufactured in different plants, with one of those plants being less efficient, then the variable overhead would also differ between the two products.

The Department acknowledges that not all of UES's products undergo the exact same fabrication processes. Indeed, based upon information gathered at verification, we know that some of the products do undergo additional fabrication. However, we have determined that the overwhelming majority of the differences in merchandise adjustments result from timing and efficiency differences, not from physical differences in the merchandise. Therefore, for purposes of this final determination, we have disregarded the labor and overhead

portion of the differences in merchandise adjustment in our analysis for products that are identical except for grade code.

Comment 3

Petitioners argue that the adjustment for U.S. credit expense should be based on the home market interest rate rather than the U.S. interest rate, because "UES did not verify that it had any actual dollar borrowing during the period of investigation." Specifically, petitioners claim that verification exhibit 103 only contains information pertaining to interest rates, not borrowings.

Respondent argues that the verification did confirm that there were dollar borrowings and that consequently, the Department should use the U.S. interest rate.

DOC Position

We agree with respondent. In its submission of August 31, 1992, at Exhibit c.11, respondent listed its dollar borrowings and the applicable interest rates. Verification exhibit 103 includes a letter from UES's U.S. bank in which it is stated that "[t]he borrowing rates for UES Sales Inc. are correct as stated." The letter then goes on to list the same interest rates that UES reported in its August 31 submission.

Comment 4

Petitioners argue that we should treat the home market warehousing expense claimed by UES as an indirect, rather than direct, selling expense, because the verification established that these warehousing expenses were pre-sale expenses.

UES argues that these expenses are directly related to the sales under consideration, and therefore qualify for a circumstances of sale adjustment pursuant to 19 CFR 353.56.

DOC Position

We agree with respondent. In its response to our questionnaire, respondent explained this adjustment as follows:

* * * UES accepts requests from some home market customers to maintain in inventory a certain amount of product manufactured to that customer's specifications. Then, when the customer needs the steel, it issues a specific purchase order for delivery out of this customer-specific stock. Customers can thereby obtain immediate delivery, rather than wait for the normal monthly rolling cycle. (The customers' requests to produce and warehouse specific steel take the form of a purchase order, but price and quantity are not determined until shipment. Accordingly, UES has reported the individual shipments from stock, and not the initial production request, as the sale for reporting on the sales file.)

The verification confirmed the facts concerning this adjustment as stated above.

Inasmuch as the date of sale is the date of the subsequent order and not the date of the original request for production and warehousing, this warehousing expense occurs "pre-sale." UES has calculated this expense separately for each customer to which it applies. UES has not claimed a circumstances of sale adjustment for warehousing expenses for ordinary inventory not produced to a customer's specifications.

The facts in this case are essentially the same that existed in the case of Polyethylene Terephthalate Film, Sheet, and Strip from Japan, wherein an adjustment for pre-sale warehousing expense was allowed. In the final determination for that case (56 FR 16300, 16303, April 22, 1991) we stated:

* * * we verified that the expenses were incurred and reported on the basis of specific products sold to specific customers during the POI. Furthermore, the stock in question was only available to those specific customers. On that basis, we have accepted Teijin's contention that its pre-sale warehousing expenses were directly related to its home market sales of PET film and have allowed the adjustment.

We therefore consider these pre-sale warehousing expenses as directly related to the sales under consideration and accordingly have made a circumstances of sale adjustment.

Comment 5

Petitioners also argue that we should disallow (or alternatively reduce the amount of) the warehouse expense adjustment because the verification showed that the reported amount should be adjusted downward by a significant percentage.

DOC Position

We disagree. Petitioners have misread the verification report. The reported amount claimed for warehouse expense, as stated in the questionnaire response, is net of the adjustment noted by petitioners.

Comment 6

Petitioners argue that UES should not be allowed to use an estimated annualized average for electricity costs. Petitioners assert that the Department's long standing practice is to annualize only general and administrative (G&A) expense and interest, never variable manufacturing cost.

Respondent argues that the use of an average annual rate provides a more accurate indication of the actual cost normally incurred by UES. UES's annual electricity contract is completed each March, at which time the electric utility reconciles the year's costs to the contract and refunds overcharges or charges amounts owed. The Department, respondent argues, requires that annualized rates be used for administrative expenses specifically to avoid the distortions that would otherwise occur from periodic or seasonal expenses.

DOC Position

The Department agrees with respondent. In cases such as this, where it was demonstrated that significant seasonal fluctuations occur, the Department does allow the use of annualized costs. The Department always uses annualized G&A and interest amounts because of the seasonal or periodic nature of these types of cost.

Comment 7

Petitioners argue that the Department should reject UES's reclassification of G&A expense out of COM to a separate category because it may have included some fixed overhead costs. Petitioners state that the list or recategorized expenses, provided by UES in Exhibit D–13 of its July 28, 1992, submission, shows several indirect cost centers, related to manufacturing, which were included in UES's reclassification of G&A.

Petitioners state that for the final determination the Department should continue to use BIA because UES failed to verify that its recategorized expenses actually are G&A expenses, rather than factory overhead expenses.

Respondent argues that its reclassification did not include factory overhead costs. UES identified and transferred from COM to G&A those cost centers exclusively or predominantly involved in activities not directly related to manufacturing activities of the company. Additionally, respondent points out that the adjustment was done to meet the Department's requirements. Concerning the cost centers referred to by petitioners, respondent states that the cost questionnaire defines G&A as those expenses that relate to activities of the company as a whole, rather than to the production process. To comply with this definition, UES reclassified 27 cost centers including: training centers, typing and reprographics, passenger cars, general supplies, and accounting and administrative centers. The specific cost centers referred to by petitioners

have little or no involvement in manufacturing activities.

DOC Position

The Department agrees with respondent. The cost centers identified by petitioners were reviewed at verification and found to be almost exclusively related to G&A. No evidence was found during the verification to indicate that the respondent reclassified factory overhead cost to G&A.

Comment 8

Petitioners argue that the Department should continue to adjust for the difference between the reported costs and the costs recorded in the books of UES. Petitioners state that in the one case where UES provided costs from its normal accounting systems, inventory value, the costs from the accounting system were significantly greater than the reported costs. Petitioners state that they can find no evidence that UES verified that its methodology led to full absorption and that there appears to be no systematic reconciliation between inventory values and reported costs. Petitioners question verification exhibit 9, stating that it indicates that costs from UES's normal accounting system exceeded reported costs.

Respondent argues that it used its existing cost accounting system to develop its actual product costs. UES states that it provided the Department with a detailed description of its cost accounting system, and that this fact is supported by over 600 pages of company financial and cost accounting statements, exhibits and worksheets collected by the Department. Respondent argues that petitioners' reference to the inventory value and the difference between it and the reported costs ignores the fact that UES's inventory amounts include G&A and interest. Any use of UES's normal inventory costs without regard to the G&A and interest included therein would result in significant overstatement of production costs through double accounting.

Respondent also argues that petitioners' concerns about the lack of verifying ability of UES's response are unfounded and that at verification UES provided detailed reconciliations of materials, processing, selling, and G&A costs to the company financial records. In addition, the reconciliation referred to by petitioners was a simple reconciliation of total reported costs of manufacturing for lead bar products compared to the standard cost of these same products, adjusted by the financial variances and that it demonstrates that reported costs are consistent with the costs that would have resulted from a simpler method of applying total company manufacturing variances to the total standard costs of those products. The difference results because leaded bar is not processed through all of UES's facilities and therefore it is to be expected that there will be a difference between the subject merchandise's specific product costs reported by UES and the less detailed costs computed by applying company-wide variances. The fact that the reported difference is so small provides additional comfort in the accuracy of the reported figures.

DOC Position

The Department agrees with respondent. Respondent provided significant evidence that it reported fully absorbed costs to the Department. The verification report explains in detail that UES used its normal cost accounting system to calculate the reported costs. UES departed from its normal cost accounting system when required to do so by the Department. The exhibit referred to by petitioners provides evidence that the reported costs are virtually the same costs that would have been reported if respondent had adopted petitioners' methodology.

Comment 9

Respondent argues that in calculating the net United States price, the Department should make a deduction for ocean freight expense based on the amounts charged UES by a related company rather than on the best information available (BIA). The related company is British Steel Shipping Service (BSSS), a division of British Steel plc, that specializes in shipping bulk cargoes (e.g., grain, ore, coal) into the United Kingdom, and steel products out of the United Kingdom. Because UES failed to provide evidence that BSSS charged UES arm's length rates, for the preliminary determination, the Department based the deduction for ocean freight on BIA for the BSSS shipments.

Since the preliminary determination, UES has provided cost data from BSSS which show the profit or loss of BSSS for the 1991 and 1992 shipping seasons on a voyage-by-voyage basis. These data were verified.

UES has also provided information from another, unrelated carrier, Baltic Line, which indicates that the unrelated carrier charges lower rates than BSSS for the transport of steel, including the products under investigation, from the United Kingdom to U.S. Great Lakes ports. This information includes tariffs filed by Baltic Line with the U.S. Federal Maritime Commission, a letter from Baltic Line's agent, and sample invoices.

Respondent argues that the fact that BSSS enjoyed an overall profit on the transatlantic trade and the fact that a second, unrelated, carrier provides the same service at lower rates, establishes that the rates BSSS charges UES are at arm's length.

Petitioners argue that because BSSS was not profitable on the U.S.-bound charters, the rates were not at arm's length. Petitioner further argues that we should ignore the evidence concerning the Baltic Line's rates, because they pertain to liner service. Liners, according to petitioners, "are common carriers serving specific routes along predetermined schedules, and therefore liner service is limited by space availability." Petitioners allege that because "UES must regularly ship large quantities of steel, it cannot depend on liner services for other than occasional small shipments."

DOC Position

We agree with respondent. BSSS's transatlantic business is profitable on a round trip basis. Furthermore, an unrelated carrier charges comparable or lower rates. The fact that the unrelated carrier provides "liner service" is not relevant. What is required is an indication that the rates UES actually pays are at arm's length. The fact that an unrelated carrier makes the service available at an equal or lower cost to that actually paid is conclusive.

Comment 10

Respondent argues that in comparing United States price to foreign market value, we should compare U.S. sales with an order quantity of 25 metric tons (MT) or greater with home market sales of 25 MT or greater, and U.S. sales of less than 25 MT with home market sales of less than 25 MT. To support its argument, UES cites 19 CFR 353.55 which states that "[i[n comparing the United States price with foreign market value, the Secretary normally will use sales of comparable quantities of merchandise."

Petitioners argue that we should not allow respondent's request, in part, because most orders in the U.S. market are for quantities of less than 25 MT.

DOC Position

We agree with respondent. At verification, we determined that pursuant to the home market price list, quantity extras apply to home market sales wherein the ordered quantity is less than 25 MT. In the U.S. market, quantity extras do not apply. Therefore,

in this instance, to avoid distorting our analysis, it is appropriate to compare sales of similar quantities with a 25 MT break-point.

Comment 11

Respondent argues that the Department should add two weeks to the payment period for each shipment to the United States for the purposes of calculating credit expense.

Petitioner argues that the Department should add 30 days to the payment period as was done for the preliminary determination.

DOC Position

We agree with respondent. We have increased the payment period by 15 days for each U.S. shipment for the purpose of calculating credit expense.

In its questionnaire response, UES calculated U.S. credit expense based on the number of days from date of shipment from the port, not from the factory, because it does not keep records for the date of shipment from the factory on an invoice-by-invoice basis. UES advised that it has a 30 day rolling cycle and a sailing to the United States every month (or more often). Therefore, UES estimated that the U.S.-bound merchandise, on average, leaves the factory two weeks prior to the reported date of sailing. For the preliminary determination, as an adverse inference, we recalculated the US credit expense by increasing the days outstanding by 30 days.

At verification, for one sailing date selected by us, we determined there was a 40 day rolling day cycle and that the weighted-average time between shipment from the factory and the vessel's sailing was 21 days. We also verified that in one instance the U.S.-bound goods were rolled over a period of two weeks, and that for all other pertinent shipments, the rolling cycle was about four weeks. Therefore, 15 days is a reasonable estimate of the average number of days between shipment from the factory to the port and shipment from the port.

Comment 12

Both petitioners and respondent argue that we should include sales to related end-users in the calculation of foreign market value.

DOC Position

We agree with both parties.

Many of UES' home market sales are to a related end-user. In its response to the questionnaire, UES claimed that these sales were at arm's-length and should be used in our analysis. Prior to the preliminary determination, UES did not perform any quantitative analysis to show that home market sales to related parties are at arm's length. Therefore, for the preliminary determination, we did not use the home market sales to related parties in the calculation of foreign market value.

Since the preliminary determination, both respondent and petitioners have done computer analyses of the home market data base in which they compared the sales prices to related and unrelated end-users. Both parties now argue that the related home market sales are at arm's length prices and therefore should be included in the calculation of foreign market value. We have accepted their conclusions.

Continuation of Suspension of Liquidation

We are directing the Customs Service to continue to suspend liquidation of all entries of lead and bismuth carbon steel from the United Kingdom that are entered, or withdrawn from warehouse, for consumption on or after September 28, 1992, the date of publication of our preliminary determination in the **Federal Register.**

The product under investigation is also subject to a countervailing duty investigation. Article VI.5 of the General Agreement on Tariffs and Trade (GATT) provides that "[n]o * * * product shall be subject to both antidumping and countervailing duties to compensate for the same situation of dumping or export subsidization." This provision is implemented by section 772(d)(1)(D) of the Act which prohibits assessing dumping duties on the portion of the margin attributable to an export subsidy. In this case, however, because the subsidy has been determined to be a domestic subsidy rather than an export subsidy, no adjustment to the estimated dumping margin is required.

The Customs Service shall require a cash deposit or bond equal to the estimated amount by which the FMV of the merchandise subject to this investigation exceeds the U.S. price, as shown below. This suspension of liquidation will remain in effect until further notice. The weighted-average dumping margins are as follows:

Producer/manufacturer/exporter	Weighted-average margin percentage
United Engineering Steels, Limited	25.82
All others	25.82

ITC Notification

In accordance with section 735(d) of the Act, we have notified the ITC of our determination.

Notification to Interested Parties

This notice also 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 determination is published pursuant to section 735(d) of the Act and 19 CFR 353.20(a)(4).

Dated: January 19, 1993.

Alan M. Dunn,

Assistant Secretary for Import Administration.

[FR Doc. 93–1904 Filed 1–26–93; 8:45 am]

BILLING CODE 3510–DS–M

[A–533–805]

Notice of Postponement of Final Antidumping Duty Determination of Sales at Less Than Fair Value: Sulfur Dyes, Including Sulfur Vat Dyes, From India

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: January 27, 1993.

FOR FURTHER INFORMATION CONTACT: Kimberly Hardin, Office of Antidumping Investigations, Import Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 482–0371.

Postponement: On December 23, 1992, Atul Products Limited, respondent in the antidumping duty investigation of sulfur dyes, including sulfur vat dyes, from India, requested that the Department postpone the final determination in this investigation until February 19, 1993, in order to allow the Department sufficient time to fully consider all of the issues in this case as well as the information obtained during the sales and cost of production verification proceedings, in accordance with 19 CFR 353.20(b).

We find no compelling reasons to deny the request and are, accordingly, postponing the date of the final determination until February 19, 1993. 19 CFR 353.20(b)(1).

In accordance with 19 CFR 353.38, case briefs or other written comments in at least ten copies must be submitted to the Assistant Secretary for Import Administration no later than 11 a.m., January 25, 1993, and rebuttal briefs no later than 11 a.m., January 27, 1993. In accordance with 19 CFR 353.38(b), we will hold a public hearing, if requested, to give interested parties an opportunity

to comment on arguments raised in case or rebuttal briefs. The hearing will be held on January 28, 1993, at 1:30 p.m. at the U.S. Department of Commerce, room 3708, 14th Street and Constitution Avenue NW., Washington, DC 20230. Parties should confirm by telephone the time, date, and place of the hearing 48 hours before the scheduled time.

Interested parties who wish to request a hearing must submit a written request to the Assistant Secretary for Import Administration, U.S. Department of Commerce, room B–099, within ten days of the publication of this notice in the Federal Register. Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; and (3) a list of the issues to be discussed. In accordance with 19 CFR 353.38(b), oral presentation will be limited to issues raised in the briefs.

This notice is published pursuant to section 735(d) of the Act (19 U.S.C. 1673d(d)) and 19 CFR 353.20(b).

Dated: January 19, 1993.

Alan M. Dunn,

Assistant Secretary for Import Administration.

[FR Doc. 93–1998 Filed 1–26–93; 8:45 am]

BILLING CODE 3510–DS–M

[C–489–603]

Acetylsalicylic Acid (Aspirin) From Turkey; Revocation of Countervailing Duty Order

AGENCY: International Trade Administration/Import Administration, Department of Commerce.

ACTION: Notice of revocation of countervailing duty order.

SUMMARY: The Department of Commerce is revoking the countervailing duty order on acetylsalicylic acid (aspirin) from Turkey because it is no longer of interest to interested parties.

EFFECTIVE DATE: January 27, 1993.

FOR FURTHER INFORMATION CONTACT: Patricia W. Stroup or Maria MacKay, Office of Countervailing Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 482–0983 or 482–0395.

SUPPLEMENTARY INFORMATION:

Background

On August 14, 1992, the Department of Commerce ("the Department") published in the Federal Register (57 FR 36634) its intent to revoke the countervailing duty order on certain acetylsalicylic acid (aspirin) from Turkey (52 FR 32156; August 26, 1987). Additionally, as required by 19 CFR 355.25(d)(4)(ii), the Department served written notice of its intent to revoke this countervailing duty order on each party listed on the most current service list. Thus, interested parties who might object to the revocation were provided the opportunity to submit their comments no later than thirty days from the date of publication of the notice of intent to revoke the countervailing duty order.

Scope of the Order

Imports covered by this order are shipments of acetylsalicylic acid (aspirin), containing no additives other than inactive substances (such as starch, lactose, cellulose, or coloring material), and/or active substances in concentrations less than specified for particular non-prescription drug combinations of aspirin and active substances as published in the Handbook of Non-Prescription Drugs, eighth edition, American Pharmaceutical Association, and not in tablet, capsule or similar forms for direct human consumption, from Turkey. This product is currently classified under 2918.22 of the Harmonized Tariff Schedule of the United States.

Determination to Revoke

The Department may revoke a countervailing duty order if the Secretary of Commerce concludes that the order is no longer of interest to interested parties. We conclude that there is no interest in a countervailing duty order when no interested party has requested an administrative review for five consecutive review periods (19 CFR 355.25(d)(4)(i)) (1989) and when no interested party objects to the revocation (19 CFR 355.25(d)(4)(iii)).

The Department received a request for an administrative review from CoKEM Associates, on behalf of the Atabay Group, producers and exporters of the subject merchandise. As CoKEM Associates was not previously a party to this proceeding, and, consequently, did not appear on our service list, we had not served them with written notice of our intent to revoke the order. Upon receipt of the request for review, we notified CoKEM Associates of our action and afforded an opportunity for comment. CoKEM subsequently withdrew its request for an administrative review of the countervailing duty order on acetylsalicylic acid (aspirin) from Turkey.

Accordingly, as we received no objections to our notice of intent to revoke the countervailing duty order, and as the one request for administrative review was withdrawn before the review was initiated, we have concluded that the countervailing duty order covering acetylsalicylic acid (aspirin) from Turkey is no longer of interest to interested parties. Accordingly, we are revoking this countervailing duty order in accordance with 19 CFR 355.25(d)(4)(iii).

Further, as required by 19 CFR 355.25(d)(5), the Department is terminating the suspension of liquidation and will instruct the Customs Service to liquidate, without regard to countervailing duties, all unliquidated entries of this merchandise exported from Turkey on or after January 1, 1992.

This notice is published in accordance with 19 CFR 355.25(d)(4)(iii).

Dated: January 14, 1993.

Alan M. Dunn,

Assistant Secretary for Import Administration.

[FR Doc. 93–1999 Filed 1–26–93; 8:45 am]

BILLING CODE 3510–DS–M

[C–351–812]

Final Affirmative Countervailing Duty Determination: Certain Hot Rolled Lead and Bismuth Carbon Steel Products From Brazil

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: January 27, 1993.

FOR FURTHER INFORMATION CONTACT: Philip Pia or Laurel Lynn, Office of Countervailing Compliance, U.S. Department of Commerce, room 3099, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 482–2786.

Final Determination

The Department of Commerce (the Department) determines that benefits which constitute subsidies within the meaning of the countervailing duty law are being provided to manufacturers, producers, or exporters in Brazil of certain hot rolled lead and bismuth carbon steel products (hereinafter: "certain additive steel products").

For information on the estimated net subsidy, please see the "Suspension of Liquidation" section of this notice.

Case History

Since the publication of the preliminary determination (57 FR 42980, September 17, 1992), the following events have occurred.

Verification was conducted from September 21 through October 2, 1992.

On October 16, 1992, in accordance with section 705(a)(1) of the Tariff Act of 1930, as amended (the Act), we aligned the final determination in this investigation with the final determination in the companion antidumping duty (AD) investigation of the same merchandise (57 FR 48020, October 21, 1992). On November 6, 1992, we postponed the final countervailing duty (CVD) and AD determinations until no later than January 25, 1993 (57 FR 53691, November 12, 1992).

The parties submitted case and rebuttal briefs on December 16 and December 23, 1992, respectively. A public hearing was held on January 5, 1993.

Scope of Investigation

The products covered by this investigation are hot rolled bars and rods of nonalloy or other alloy steel, whether or not descaled, containing by weight 0.03 percent or more of lead or 0.05 percent or more of bismuth, in coils or cut lengths, and in numerous shapes and sizes. Excluded from the scope of this investigation are other alloy steels (as defined by the *Harmonized Tariff Schedule of the United States* (HTSUS) Chapter 72, note 1(f)), except steels classified as other alloy steels by reason of containing by weight 0.4 percent or more of lead, or 0.1 percent or more of bismuth, tellurium, or selenium. Also excluded are semi-finished steels and flat-rolled products. Most of the products covered in this investigation are provided for under subheadings 7213.20.00.00 and 7214.30.00.00 of the HTSUS. Small quantities of these products may also enter the United States under the following HTSUS subheadings: 7213.31.30.00, 60.00; 7213.39.00.30, 00.60, 00.90; 7214.40.00.10, 00.30, 00.50; 7214.50.00.10, 00.30, 00.50; 7214.60.00.10, 00.30, 00.50; and 7228.30.80. Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of this proceeding is dispositive.

Respondents

The Government of Brazil (GOB), Companhia Acos Especiais Itabira (ACESITA), and Mannesmann, S.A. (Mannesmann) are respondents to this investigation.

Corporate History

During the period of investigation (POI), ACESITA was a state-owned company. In accordance with GOB's national privatization plan, ACESITA's stock was auctioned to the public on October 22, 1992. Because this auction occurred after the preliminary determination in this case, we are not considering the auction, or its possible effect on any of the programs described below, in this investigation. We will address these issues during the first administrative review of the countervailing duty order in this case, as is contemplated by section 355.39 of the Department's Proposed Regulations (Countervailing Duties; Notice of Proposed Rulemaking and Request for Public Comments, 54 FR 23366 (May 31, 1989) (Proposed Regulations)), if a countervailing duty order is issued and an administrative review is requested.

Analysis of Programs

For purposes of this final determination, the period for which we are measuring subsidies (the period of investigation (POI)) is calendar year 1991 which corresponds to the fiscal year of ACESITA and Mannesmann.

In determining the benefits received under the various programs described below, we used the following calculation methodology. We first calculated the country-wide rate for Brazil. This rate comprise the sum of the *ad valorem* rates received by each firm weighted by each firm's share of exports to the United States of the subject merchandise. Because this rate was above *de minimus*, pursuant to 19 CFR 355.20(d), we compared the total *ad valorem* rate received by each firm to the country-wide rate for all programs. The rate for ACESITA was significantly different from the weighted-average country-wide rate. Therefore, ACESITA received its own rate. Because ACESITA is significantly different from the country-wide rate, its rate is removed from the calculation of the country-wide rate applied to all remaining companies. Because Mannesmann is the only remaining firm, its rate constitutes the country-wide rate which will be assigned to all imports of the subject merchandise from Brazil from all producers and exporters, except ACESITA.

Equityworthiness

Petitioners have alleged that ACESITA unequityworthy for certain years and that equity infusions received during those years were inconsistent with commercial considerations. However, we have determined that the assistance alleged by petitioners to constitute equity infusions should not be treated as equity. Therefore, there is no need to make an equityworthiness determination.

Creditworthiness

We have examined ACESITA's financial statements and, through the use of ratio analysis, its performance covering the years 1979 through 1991, in order to determine the firm's creditworthiness. The data in those statements demonstrate extremely low levels of liquidity and a questionable ability to service its maturing long-term debt. In fact, ACESITA was in default on some of its long-term debt during the period 1986 through 1989, and reports made by Banco do Brasil auditors confirm that the survival of the firm was in question throughout most of the 1980s. The record is clear that a reasonable creditor would have concerns about the long-term solvency of the firm during this period. We determine that ACESITA was uncreditworthy during this period, and have added a risk premium to the benchmark discount rates used in our examination of ACESITA's issuance of *partes beneficiarias* and its debt-for-debt swap. *See* the Department's *Equityworthy and Creditworthy Analysis Memorandum*, (September 10, 1992).

Grant Methodology

Our policy with respect to grants is (1) to expense recurring grants in the year of receipt, and (2) to allocate non-recurring grants over the average useful life of assets in the industry, unless the sum of grants provided under a particular program is less than 0.5 percent of a firm's total or export sales (depending on whether the program is a domestic or export subsidy) in the year in which the grant was received. See *e.g.*, Final Affirmative Countervailing Duty Determination; Fresh and Chilled Atlantic Salmon from Norway, 56 FR 7678 (February 25, 1991) (Salmon from Norway).

We have considered the debt-for-debt swap undertaken by ACESITA in 1990 and the "partes beneficiarias" (PBs), as of 1989, to constitute non-recurring grants, because the benefits are exceptional, and the recipient cannot expect to receive benefits on an ongoing basis from review period to review period. See, Final Affirmative Countervailing Duty Determination; Certain Fresh Atlantic Groundfish from Canada, 51 FR 10041 (March 24, 1986) (Groundfish from Canada). Therefore, we have allocated the benefits over 15 years, which the Department considers to be reflective of the average useful life of assets in the steel industry (See section 355.49(b)(3) of the Proposed Regulations).

The benefits from the debt-for-debt swap and the BPs were calculated using

the declining balance methodology described in the Department's Proposed Regulations (See section 355.49(b)(3)) and used in prior investigations (see *e.g.*, Salmon from Norway). For the BPs, we have used as a discount rate the cost of dollar-denominated, long-term, fixed-rate debt of ACESITA in 1989. For the debt-for-debt swap, we have constructed a long-term, fixed-rate, dollar-denominated benchmark for 1990 based on offers made to ACESITA by private commercial banks in 1990. Because ACESITA was uncreditworthy in both years, we have added a risk premium to these benchmarks as required by the Proposed Regulations.

We consider the benefits under the Law 7554/86 IPI rebate program to be recurring because (1) the program is not exceptional; (2) the program is longstanding—it has been in place for over fifteen years and although the disbursement method and our treatment of the benefit changed in 1990, the program is scheduled to continue in its present form until 1996; and (3) the benefits are consistently distributed. This determination is consistent with the Department's standard on recurring versus non-recurring grants, as enunciated in the Proposed Regulations and recently in the Preliminary Affirmative Countervailing Duty Determination: Certain Steel Products From the United Kingdom, 57 FR 57734, December 7, 1992. (Certain Steel Products From the United Kingdom.)

Based on this analysis, we expensed the IPI rebates provided under this program in 1991, dividing the total amount of each company's IPI rebates received during the POI by their respective total sales in 1991.

Specificity

When receipt of benefits under a program is not contingent upon exportation, the Department must determine whether the program is specific to an enterprise or industry, or group of enterprises or industries. Under the specificity analysis, the Department examines both whether a government program is limited by law to a specific enterprise or industry, or group thereof (*i.e., de jure* specificity) and whether the government program is in fact limited to a specific enterprise or industry, or group thereof (*i.e., de facto* specificity). See section 771(5)(B) of the Act. In section 355.43(b)(2) of the Department's Proposed Regulations, the Department has set forth the factors that may be considered in determining whether there is specificity:

(i) The extent to which a government acts to limit the availability of a program;

(ii) The number of enterprises, industries, or groups thereof that actually use a program;

(iii) Whether there are dominant users of a program, or whether certain enterprises, industries, or groups thereof receive disproportionately large benefits under a program; and

(iv) The extent to which a government exercises discretion in conferring benefits under a program.

See also Final Affirmative Countervailing Duty Determination: Certain Softwood Lumber Products from Canada, 57 FR 22570 (May 28, 1992).

I. Programs Determined To Confer Subsidies

We determine that subsidies are being provided to manufacturers, producers, or exporters in Brazil of certain additive steel products as follows:

A. Partes Beneficiarias

In the early 1980s, ACESITA experienced serious financial difficulties, including low liquidity levels. The Banco do Brasil, ACESITA's major shareholder, undertook a study of the company's financial and operating positions, and outlined options for the Banco do Brasil to follow in assisting the company. The study recommended that ACESITA issue PBs, which were hybrid instruments with qualities of both debt and equity. PBs are similar to liabilities because they carry an obligation for the issuer to repay the bearer the nominal purchase value in equal yearly installments following a grace period (in ACESITA's case, the repayments were scheduled to start in 1989). PBs are similar to equity in that the purchaser has the right to share in the company's annual profits.

PBs were chosen over equity infusions for several reasons. First, the Banco do Brasil was prohibited by law from increasing its equity share in the company. Second, it was unlikely that other shareholders would continue to participate in stock offerings. Third, the Banco do Brasil was under pressure from the International Monetary Fund to limit any new industrial investment to only absolutely necessary infrastructure projects.

In 1989, ACESITA's PB-holders held a meeting in which they voted to authorize the conversion of PBs to common stock at an indeterminate date in the future. This vote did not change PBs into stock; it merely laid a legal basis for eventual conversion into common stock.

Repayment of the PB investments had originally been scheduled to begin in 1989. However, at that time, no payments were requested by the PB-holders, and no payments were made by ACESITA. Further, the PBs were not converted into stock at the point the repayment obligations ceased nor was there any schedule or timetable put into place for the conversion. At that point, in 1989, the PBs were neither debt nor equity, and in addition, the basic terms of the instrument were not met. The failure to meet basic terms of the instrument, coupled with the lack of an actual conversion of the PBs into stock, or a concrete plan and timetable for conversion, in effect, rendered the PBs grants as of 1989.

We have used our grant methodology to value PBs, as described in the Grant Methodology section above. We indexed the original nominal values of the PBs to account for Brazilian hyperinflation by dollarizing them. On this basis, we find the estimated net subsidy to be 10.68 percent *ad valorem* for ACESITA and 0.00 percent *ad valorem* for all other manufacturers, exporters, and producers of the subject merchandise.

B. ACESITA Debt-for-Debt Swap

In 1990, ACESITA engaged in a debt-for-debt swap transaction which reduced its loan obligations substantially. We find that this transaction provides a countervailable subsidy to ACESITA.

Normally, Brazilian companies with foreign-denominated debt governed by Resolution 4131 are required to service such debt through local currency payments processed through the Central Bank. Following the suspension of convertibility, the Central Bank issued negotiable notes known as Multi-Year Deposit Facility Agreement Certificates, or MYDFAs, in lieu of the foreign currency due the creditor. MYDFAs entitled the bearer to immediate redemption in cruzeiros only—redemption of the note in U.S. dollars was suspended for an unspecified period. Because of these restrictions and because MYDFAs are negotiable, they began selling at less than their par value in secondary markets.

ACESITA utilized this discounting to substantially reduce its indebtedness. ACESITA had a loan with the Banco do Brasil which was paid, through the Central Bank, in MYDFAs. ACESITA used an intermediary to borrow sufficient funds to purchase, on the secondary market at a substantial discount, enough MYDFAs to satisfy ACESITA's obligation to the Banco do Brasil. ACESITA's original loan was paid in full with the discounted MYDFAs. ACESITA essentially replaced its original foreign-currency denominated loan with a new, much smaller loan. ACESITA's benefit derives

from the difference between the amounts of the two loans. ACESITA assumed the second loan after the intermediary had paid off the original debt with the MYDFAs.

We find that there is insufficient evidence on the record to determine that debt buy-back transactions such as ACESITA's, are not *de facto* specific. See the Specificity section above. In the original questionnaire, the Department requested information from the GOB and the company on the ACESITA transaction, and also requested the GOB to provide information on the availability of such transactions. Specifically, the questionnaire asked the GOB to provide information regarding eligibility criteria, types of records kept by the administering authority, numbers, types, and locations of industries which have applied for and received benefits, and whether there are any limitations on eligibility based on export performance, industry groups, or geographical location. Although the GOB provided information regarding the transaction in question, it did not respond to the Department's specificity questions, stating that such questions were not applicable because the loan was not provided as part of a government program.

In a supplemental questionnaire, the Department requested a breakdown, by industry, of similar transactions from the Banco do Brasil. The GOB responded that due to strict bank secrecy laws, such information could not be provided. However, confidentiality of information does not relieve a respondent from its obligation to provide the Department information. Although the GOB provided articles and other published material about MYDFAs and debt swap arrangements, the GOB provided no further information on the actual number and types of industries that had participated in MYDFA-based debt swaps, all of which had to have been processed through the Central Bank. Moreover, the GOB did not provide any information that would allow the Department to determine whether the ACESITA transaction was similar in its terms and conditions to other transactions involving MYDFAs.

Absent such factual, verified information from the GOB, it is not possible for the Department to conclude that ACESITA's debt-for-debt swap, which, on its face, benefitted ACESITA by relieving it of a large debt in exchange for a smaller debt, is non-specific and therefore non-countervailable.

Because there is inadequate information on the record to determine that debt-for-debt swaps are not specific, we have, as best information available, found that this transaction was specific to an enterprise or industry, or group of enterprises or industries.

We determine that such a transaction is essentially debt forgiveness by the GOB, and as such bestowed a countervailable benefit to ACESITA. ACESITA was relieved from a debt that it otherwise would have to had to pay absent government intervention. Therefore, we have treated the difference between the first loan and the second loan as a nonrecurring grant and used the methodology described in the Grant Methodology section above. We have allocated that amount of debt forgiven in 1990 over 15 years, the average useful life of assets in the steel industry. We divided the result by ACESITA's total sales in 1991. The rate for ACESITA is 5.40 percent *ad valorem* and 0.00 percent *ad valorem* for all other manufacturers, exporters, and producers.

Although we determine that ACESITA was uncreditworthy at the time the transaction was made, the interest rate charged by the Banco do Brasil for the swap loan is higher than the Department's benchmark rate including the risk premium for uncreditworthy companies. Therefore, we determine that the new loan was made on terms consistent with commercial considerations.

C. IPI Rebate Program Under Law 7554/86

Under this program, Brazilian steel producers are eligible to receive a rebate of the IPI tax (Imposto sobre Produtos Industrializados), which is a value-added sales tax paid on domestic sales of industrial products. The steel producers must meet the following conditions in order to receive IPI rebates under this program:

(a) The company must produce liquid steel;

(b) The IPI rebate must be used to increase the production of certain steel products;

(c) The company must have an ongoing capital investment project, originally approved by the Conselho do Desenvolvimento Industrial (CDI (the Industrial Development Council));

(d) The company must receive quarterly approval from the Department for Industry and Commerce to ensure that capital investment in the approved project is continuing; and

(e) The company must have a net IPI tax obligation in each quarter.

The IPI rebate program was originally established in 1977 (Decree-Law 1547). Although the program was suspended in April 1990 (Law 8034), steel companies with projects approved before April 12, 1990 are eligible to continue to receive IPI rebates until 1996 pursuant to the old legislation (Law 7554).

Because only steel producers are eligible to receive IPI rebates, we determine that this program is limited to a specific enterprise or industry, or group of enterprises or industries. We have found that ACESITA and Mannesmann received benefits under this program.

We consider the IPI rebate program to constitute a recurring benefit, consistent with our treatment of it in the Final Negative Countervailing Duty Determination: Circular Welded Non-Alloy Steel Pipe From Brazil, 57 FR 42968, (September 17, 1992), (Pipe and Tube From Brazil). This determination is consistent with our standards for recurring versus non-recurring grants. See the Grant Methodology section above. The IPI rebate program is not exceptional and the benefits are consistently distributed. Once approved, the benefits are continuously received. No further application or approval is required. Companies need only meet eligibility requirements in order to automatically receive the benefits. While the program is scheduled to terminate in 1996, the rebates will continue to be available until that time. Recipients can expect to receive benefits on an ongoing basis from year to year, as long as the minimum eligibility requirements set forth in the original program are met.

Based on this analysis, we expensed the rebates provided under this program in 1991, in accordance with our policy regarding recurring grants (See Grant Methodology section above). We divided the total amount of each company's IPI rebates received during the POI by their respective total sales in 1991. On this basis, we determine the net subsidy under this program to be 2.90 percent *ad valorem* for ACESITA and 0.67 percent *ad valorem* for all other manufacturers, exporters, and producers of the subject merchandise.

D. Exemption of IPI and Import Duties on Imports Under Decree/Law 2324

Decree/Law 2324 of March 30, 1987, provided exporters of manufactured products exemptions from IPI and duties on imported spare parts and machinery. One respondent, Mannesmann, was provided exemptions under this law during the POI. Because this exemption is limited to exporters, and because the imported goods were not physically incorporated into the subject merchandise, we determine that it is countervailable.

To calculate the benefit, we divided the amount of IPI and import duties exempted in 1991 by Mannesmann's total exports in 1991. The rate for ACESITA is 0.00 percent *ad valorem* and 0.15 percent *ad valorem* for all other manufacturers, producers, and exporters in Brazil of the subject merchandise. However, this program was terminated by the expiration of the law on December 31, 1991, and we verified that no residual benefits were received after that date. Therefore, for this program we have reduced the cash deposit rate to zero in accordance with section 355.50(a)(2) of the Department's Proposed Regulations.

E. Exemptions of IPI and Duties on Imports Under Law 2894

Law 2894 of October 1, 1956, specifically exempts ACESITA from import duties and IPI on imports of all goods which are destined for the improvement, expansion, and maintenance of steel and hydro-electric plants owned by ACESITA. This law provides different benefits from the IPI Rebate Program under Law 7554/86 described above, because this law applies to IPI and duties due only on imports. The law is effective as long as the Banco do Brasil remains the majority shareholder of ACESITA.

Respondents have argued that due to the national privatization plan in place in Brazil since 1990, and the privatization auction held on October 22, 1992, the Banco do Brasil is no longer the majority shareholder of ACESITA, and that the Department should, therefore, adjust the deposit rate to zero. As stated in the Corporate History section above, we do not consider the GOB's privatization plan in and of itself to constitute privatization. Because the auction of ACESITA's stock was held after the preliminary determination in this case, we have not considered the impact of that auction on this program.

Because this exemption was limited to one company, we determine that it is countervailable. To calculate the benefit, we divided the amount of IPI and import duties exempted in 1991 by ACESITA's total sales in 1991. The rate for ACESITA is 0.21 percent *ad valorem* and 0.00 percent *ad valorem* for all other manufacturers, exporters, and producers of the subject merchandise.

II. Program Determined Not To Be Countervailable

We determine that the following program does not provide subsidies to manufacturers, producers, or exporters in Brazil of certain additive steel products:

A. Long-Term Loans Through FINEP

The Fund of Studies and Projects (FINEP; Financiadora de Estudos e Projectos) is a government agency that provides and administers loans in connection with technological development projects. ACESITA had two loans outstanding during the POI from FINEP. We verified that the following sectors received financing from FINEP in the years in which ACESITA received financing: Livestock, fisheries and agriculture; mining, metallurgy and mechanics; electric, electronic and communications equipment; infrastructure, transportation and communication equipment; wood, paper and paperboard; chemicals, plastics, and alcohol; textiles, apparel, footwear, and artifacts; food products; civil construction, engineering and consulting; electrical energy, gas, and sanitation; and others. Steel is classified as part of the metallurgy sector. We also verified that FINEP loans were not limited to geographical regions of Brazil. We found no new evidence that ACESITA or the steel industry, as a whole, received a disproportionate share of FINEP funds. We also found no evidence at verification that FINEP applied different criteria or standards in approving ACESITA's loan application than for other applicants.

Given that a wide array of industries received FINEP loans, and there is no evidence that steel received a disproportionate share or that FINEP exercised discretion in awarding ACESITA its loans, we determine that FINEP is not *de facto* limited to a specific enterprise or industry or group of enterprises or industries. Therefore, we determine that FINEP loans do not bestow a countervailable benefit to producers or exporters of the subject merchandise.

III. Programs Determined Not To Be Used

We verified that the following programs were not used by manufacturers, producers, or exporters in Brazil of certain additive steel products:

A. BNDES Preferential Financing
B. FINEX Preferential Export Financing
C. PROEX Preferential Export Financing
D. Tax Incentives and Funds Through Project CONSERVE
E. IPI and Import Duty Exemptions Through the BEFIEX Program

IV. Program Determined Not To Exist

We verified that the following program does not exist:

Import-Export Reform Plan Preferential Financing

Comments

Comment 1—Petitioners contend that the Department should abandon the standard for recurring versus non-recurring grants, because there is no basis for it in the statute. If the Department continues to apply this standard, petitioners argue that the IPI rebate program is non-recurring according to the standards in the Department's Proposed Regulations and recent steel cases because the rebates are based on a one-time authorization of a capital improvement project. See, *e.g.*, Preliminary Affirmative Countervailing Duty Determination: Certain Steel Products From the United Kingdom, 57 FR 57734, (December 7, 1992). (Certain Steel Products From the United Kingdom).

They argue that until Pipe and Tube from Brazil, IPI rebates under Law 1547, as amended by Law 7554/86, were treated as non-recurring grants by the Department. See, *e.g.*, Certain Carbon Steel Products From Brazil; Final Results of Countervailing Duty Administrative Review, 52 FR 829, (January 9, 1987) (Certain Steel From Brazil).

Petitioners argue that because the benefits are non-recurring, they should be allocated over fifteen years, rather than expensed in the year of receipt. Petitioners also argue that the cancellation of the IPI rebate program in 1990 provides further evidence that the program is non-recurring, because respondents could not expect to receive benefits on an ongoing basis in the future.

Respondents contend that if the Department continues to consider IPI rebates to be a subsidy, the Department should continue to consider them to be recurring benefits, and should continue to expense the rebates in the year of receipt.

Respondents contend that this determination is consistent with the standard in the Proposed Regulations: (1) The IPI rebate program is not exceptional, as the program has operated regularly over a long period of time; (2) the program should be considered long-standing because it has been in existence for over fifteen years; and (3) there is great certainty that the program will continue to operate as usual in the future, until its effective termination date in 1996. Respondents also contend that IPI rebates were treated as recurring benefits in the Pipe and Tube From Brazil case and the recent Certain Steel From Brazil preliminary determination.

DOC Position—We determine the IPI rebate program to be a recurring benefit, consistent with our treatment of it in Pipe and Tube From Brazil. This determination is consistent with our criteria for recurring versus non-recurring grants, as enunciated recently in Certain Steel Products From the United Kingdom. The IPI rebate program is not exceptional. Further, it is longstanding—it has been in place over fifteen years, and although its method of disbursement and our treatment of the program changed in 1990, it will continue to operate as it does currently until its termination in 1996. Recipients can expect to receive benefits on an ongoing basis from year to year, as long as the minimum eligibility requirements set forth in the original program are met.

We have expensed IPI rebates in the year of receipt, consistent with our treatment of recurring benefits. This determination is not inconsistent with previous Department determinations, as argued by petitioners.

There has been an important change in the method of disbursement of the IPI rebates. Prior to 1990, companies would remit the full IPI tax to the government, which then rebated 95 percent to SIDERBRAS (the government-owned steel holding company), and SIDERBRAS returned the funds to the companies in the form of equity infusions. Accordingly, we countervailed those pre-1990 IPI rebates according to our methodology for valuing equity infusions. SIDERBRAS entered liquidation in 1990, and is no longer involved in the IPI rebate procedure. At present, companies remit the full amount of IPI owed to the government, and receive the rebates directly from the government on a regular basis. Due to the fact that the rebated funds are no longer provided to the companies in the form of equity infusions, the equity infusion allocation methodology is no longer appropriate. Based on the factors cited above, we determine that IPI rebates, as presently disbursed, constitute recurring benefits, and we have valued them in accordance with our recurring grant methodology as described in the Grant Methodology section above.

Comment 2—Petitioners contend that the 1989 decision by the Banco do Brasil to convert its PBs into equity constitutes a countervailable equity infusion. Prior to 1989, PBs cannot be considered equity because they had a fixed redemption obligation. PBs should only be considered to be equity after the 1989 shareholders' meeting in which the PBs were converted into equity.

Respondents argue that, to the extent the Department finds the PB investments to be countervailable, it should consider the original investment dates (1983, 1984, and 1985) to be the dates of the equity infusions because the PBs functioned in many ways similar to stock from the time of purchase.

Respondents argue that the Department's preliminary determination that the PBs were converted to equity in 1989 was incorrect. Respondents contend that no such conversion occurred. The holders of the PBs voted only to authorize the conversion of PBs to equity in the future, prior to the privatization of the company. Respondents argue that the 1989 vote did not change the status of the PBs; it merely provided a legal basis for an eventual conversion to equity. Respondents argue that the actual conversion to equity occurred in October 1992, a few days prior to the auction of the company. Therefore, respondents argue that if the Department does not consider 1983, 1984, and 1985 to be the dates of the equity infusions, the only other date which could be considered would be 1992, when the PBs were actually converted into stock.

Respondents argue that because the equity infusions occurred in 1983, 1984, and 1985, the Department should revise its grant cap calculation accordingly.

DOC Position—At the time of the initial investment, PBs were hybrid instruments having the qualities of both debt and equity. From their initiation, the PBs carried a repayment obligation, with the first payments due in 1989. No repayment of PBs was ever made in accordance with the prescribed schedule. ACESITA did not begin the repayment process, nor did the PB-holders request any payment. In 1989, the PB-holders voted to authorize the eventual conversion of PBs into common stock. However, there were no fixed terms or timetables for this conversion. Because the obligation to repay was not met, and there was no concrete plan for the conversion into stock, we consider that, in 1989, the PBs effectively became grants.

Comment 3—Petitioners argue that the Department's rate of return shortfall methodology (RORS) does not adequately capture benefits from government equity infusions. Petitioners contend that because ACESITA was unequityworthy at the time of the 1989 PB equity infusion, the infusion should be treated as a grant, and calculated using the Department's grant methodology.

Respondents argue that the Department should continue to value the PB equity infusions using RORS. Respondents claim that using the grant methodology to value equity infusions is contrary to the law and Departmental practice. Respondents argue that use of the grant methodology to value equity infusions is inconsistent with the Department's equityworthiness methodology, and produces inconsistent results.

Respondents also contend that the Department should revise its calculation of the benchmark rate of return in using the RORS methodology to value the benefit from the PB equity infusions. The Department should use the national average rate of return in the RORS methodology, rather than the steel industry's rate of return, as was used in the preliminary determination. This change would be consistent with the Department's past use of the RORS methodology.

DOC Position—We have determined that PBs should be characterized as grants after 1989, not equity. We do not consider any program in this investigation to constitute an equity infusion during the POI. Therefore, arguments regarding the appropriate valuation methodology for equity infusions are moot.

Comment 4—Petitioners argue that the Department correctly characterized ACESITA's debt swap arrangement as debt forgiveness by the Banco do Brasil. Respondents failed to provide sufficient evidence that such an arrangement was not specific to ACESITA, either in submissions or at verification. Although the Department requested information regarding debt swaps from the Banco do Brasil during verification, the Banco do Brasil refused to supply any information regarding debt swaps arranged for other clients because of Brazilian regulations regarding confidentiality of such information. Petitioners argue that claims of confidentiality cannot be used as a reason for not supplying the Department with information. Petitioners cite *Allied Tube and Conduit Corp.* v. *United States*, 898 F2d 780,785 (Fed. Cir. 1990) Accordingly, petitioners argue that the Department should use the information submitted in the petition as best information available (BIA) regarding the specificity of the debt swap arrangement.

Respondents argue that ACESITA's debt restructuring did not confer a countervailable benefit to the company. First, respondents argue that the debt swap was not specific to ACESITA, but rather such debt swaps are commonly used by Brazilian companies. Respondents argue that the Department should reject petitioners' request for the use of best information available. Second, respondents argue that ACESITA's debt restructuring cannot be

characterized as debt forgiveness because ACESITA has fully satisfied all of its loan obligations to its creditor, Banco do Brasil.

Respondents argue that they have provided sufficient information on the record to demonstrate that debt restructuring such as ACESITA's arrangement are the result of Brazil's economic situation and market forces. Debt buy-back transactions similar to ACESITA's transaction are commonplace. Respondents argue that petitioners' characterization of the Banco do Brasil's "refusal" to provide information regarding similar transactions is misleading. The Banco do Brasil informed the Department that it could not provide additional detailed information regarding other transactions, due to strict Brazilian laws governing the disclosure of details of banking transactions to third parties. Respondents argue that the restrictions placed on Brazilian banks are very similar to those placed on U.S. banks.

Respondents contend that the Department's characterization, in the preliminary determination, of the debt buy-back as debt forgiveness is incorrect. Respondents argue that no forgiveness was involved in either of the two loan transactions involved in the debt swap. The first, underlying loan from the Banco do Brasil was paid in full. There can be no forgiveness when a loan is paid in full. ACESITA continues to service its obligations on the second loan. The Department properly evaluated the second loan on its own terms, and determined that it did not confer a benefit.

DOC Position—We consider that the debt buy-back transaction undertaken by ACESITA does confer a countervailable subsidy, as described above. In the preliminary determination, we characterized this transaction as debt forgiveness based on the information provided in the questionnaire response. It was only from information submitted after the preliminary determination and at verification, that we learned the exact nature of this debt-for-debt swap.

There is insufficient information on the record to determine that debt buy-back transactions such as ACESITA's, are not *de facto* specific. See the Specificity section above and Section Two, Appendix One of the Department's questionnaire. The Department requested detailed information from respondents regarding actual industry use of such transactions, and the actual terms and conditions of similar transactions, but respondents failed to provide this information. Confidentiality of information does not relieve a respondent from its obligation to provide the Department with information.

Comment 5—Petitoners argue that the Department erred in calculating a nominal, rather than an effective, benchmark rate for evaluating the second loan provided to ACESITA in its debt swap arrangement. Petitioners contend that the loan was provided free of certain fees and charges which ACESITA would normally have to pay, including a financial tax (IOF) and a withholding tax on interest payments, making its true cost of money cheaper than alternative commercially-available financing. Petitioners contend that the Department should use information on the record to construct a company-specific benchmark rate for ACESITA.

Respondents argue that the benchmark interest rate used by the Department in the preliminary determination was correct and should be used for this final determination. Respondents argue that petitioners are incorrect in their assertion that other charges should be included in a benchmark rate.

DOC Position—We disagree with petitioners. First, information on the record demonstrates that the IOF tax is applicable to short-term debt only; it is not charged on loans with periods over 90 days.

Second, the withholding tax, for which petitioners seek an adjustment, is applicable to interest remitted abroad. Petitioners have argued that because the only likely source for dollar-denominated financing is outside Brazil, the benchmark interest rate must incorporate this withholding tax. Petitioners assertions to the contrary, information on the record indicates that ACESITA has previously secured long-term dollar-denominated financing in Brazil. This debt was not subject to the withholding tax. It cannot be assumed, therefore that all potential alternative financing for the debt swap would have been subject to this withholding tax.

Finally, ACESITA's debt swap loan package did include "fees or commissions" imposed upon it by the intermediary involved in the debt swap. These fees were incorporated into the loan that ACESITA assumed, a loan which was greater than the amount necessary to purchase the MYDFAs necessary to retire ACESITA's loan with the Banco do Brasil.

We determine, therefore, that the LIBOR plus spread and risk premium benchmark used by the Department in its preliminary determination is correct, and that petitioners suggested adjustments to the benchmark are not warranted.

Comment 6—Respondents contend that the privatization of ACESITA constitutes a program-wide change. Respondents state that, according to the Proposed Regulations, (54 FR 23378, 23385), a program-wide change is defined as a change which is not limited to a specific company or companies, and is implemented by an official act, such as a statute, regulation, or decree. Respondents argue that the privatization of ACESITA meets all these criteria. Respondents argue that this program-wide change occurred prior to the preliminary determination in this investigation, and that the Department should, therefore, set the deposit rate associated with the PB equity infusions at zero.

Respondents argue that ACESITA's privatization was initiated by Law 8031 on April 4, 1991, which, along with subsequent legislation and regulations, established the procedures to be used in the privatization process. Because these laws governed the privatization not just of ACESITA but also of various other companies, it meets the requirement that a program-wide change not be limited to a specific enterprise.

Respondents argue that, as the privatization program was initiated in 1990, it occurred and was verifiable prior to the preliminary determination in this investigation. Respondents argue that the controlling events of the privatization, including the establishment of procedures, consultants' studies, and development of conditions of sale and minimum price, were completed prior to the preliminary determination.

Respondents argue that the Department's approach to privatization published in the preliminary determination in Preliminary Affirmative Countervailing Duty Determination: Certain Steel Products From Brazil, 57 FR 57806 (December 7, 1991), is contrary to law and should not be applied to ACESITA in this investigation. That determination stated the Department's position that equity benefits provided to an unequityworthy company prior to privatization are not extinguished by the privatization unless the benefits were repaid prior to privatization.

Petitioners argue that the privatization of ACESITA does not constitute a program-wide change. Petitioners argue that the privatization of ACESITA did not take place until October 22, 1992, the date of the auction of the company. The fact that the plans for privatization were in place does not mean that privatization took place. Privatization is only accomplished by the successful sale of the company.

DOC Position—We do not consider that privatization, in and of itself constitutes a program-wide change, or that a privatization program is the type of program contemplated for consideration under the program-wide change section of the Proposed Regulations. Even assuming *arguendo*, however, that privatization could be construed as a program-wide change, we do not consider that privatization occurs prior to the actual sale of the company. It would not be possible to assess such a program-wide change until after the conclusion of the actual sale of the company so that all the effects of the privatization program could be analyzed.

In this case, while plans for the auction of ACESITA were in place prior to the preliminary determination, the auction did not take place until after the preliminary determination. Therefore, we do not consider Brazil's national privatization plan to constitute a program-wide change in this investigation. As such, there is no basis for considering any impact such a change would have on any program in this investigation, nor for making any adjustment to the cash deposit rates.

Comment 7—Petitioners contend that the GOB exercised considerable discretion in providing ACESITA with loans from FINEP and that, therefore, the financing confers a countervailable benefit because it fails the Department's specificity test. Petitioners contend that the ACESITA's loans from FINEP were not provided in accordance with the agency's guidelines. One of the criteria used to evaluate potential recipients of FINEP loans is the creditworthiness of the borrower. Petitioners argue that because ACESITA was uncreditworthy at the time it received loans from FINEP in 1987 and 1990, it did not meet the program criteria, and would not have received the loans absent the exercise of discretion by the GOB. Petitioners contend that because of the discretion used by the GOB to grant these loans, the program fails the specificity test, and the benefit should be countervailed.

Respondents argue that petitioners are incorrect that FINEP loans were provided to ACESITA in violation of FINEP's lending policies. Respondents argue that ACESITA guaranteed its loans from FINEP with its fixed assets, and that therefore FINEP was protected in the transaction. The Department confirmed at verification that ACESITA has made every payment under the FINEP loans. All information on the record confirms that the FINEP loans to ACESITA were in no way different from its loans to other companies and industries. Respondents argue that the loans cannot be considered specific to ACESITA.

DOC Position—There is no evidence on the record to indicate that the GOB used discretion in granting FINEP loans to ACESITA. We have no reason to believe the consideration accorded ACESITA's loan applications was inconsistent with that accorded to any other company's application. Our review at verification of the actual number of sectors using FINEP, the amount of FINEP funding to the steel industry, and the criteria used by FINEP officials to approve loans leads us to conclude that FINEP financing is not specific to an enterprise or industry, or group of enterprises or industries.

Comment 8—Respondents argue that Law 2324 terminated prior to the preliminary determination in this case, and that the Department should adjust the deposit rate accordingly. Respondents claim that, while the GOB holds the position that the law terminated in 1990, there is no question that the law self-terminated by its own decree on December 31, 1991. Because this constitutes a program-wide change, the Department should follow its practice of adjusting the cash deposit rate for a program-wide change which occurs before the preliminary determination.

Petitioners argue that the Department correctly determined that Law 2324 provided a countervailable subsidy to ACESITA. Petitioners claim that the Department based its determination in part on the fact that respondents did not provide a copy of the law to the Department. Petitioners claim that because respondents still have not provided a copy of the law to the Department, the Department should, in this final determination, consider Law 2324 to provide a countervailable benefit.

DOC Position—During verification, we examined Law 2324 and discussed its operation with GOB and company officials. A copy of the law was included in the verification exhibits. There is sufficient information on the record to determine that Law 2324 provides a countervailable benefit, and also that it terminated prior to the preliminary determination in this investigation. We verified that no residual benefits were provided after the termination of the program. We have, therefore, adjusted the cash deposit rate to zero, in accordance with our practice regarding program-wide changes.

Comment 9—Respondents argue that the Department should adjust the deposit rate to zero for the exemption of IPI and import duties under Law 2894. Respondents argue that benefits under Law 2894 were only provided to ACESITA as long as the Banco do Brasil was the majority shareholder. Respondents contend that the privatization of ACESITA, which resulted in the Banco do Brasil becoming a minority shareholder, constitutes a program-wide change occurring prior to the preliminary determination. Therefore, they argue that an adjustment of the deposit rate would be consistent with the Department's treatment of program-wide changes.

DOC Position—As discussed in the Corporate History section and Comment 6 above, we do not consider that the national privatization plan, in and of itself, constitutes a program-wide change.

Additionally, the Banco do Brasil remained the majority shareholder until the auction of the company on October 22, 1992, which is after the preliminary determination in this investigation. Therefore, we have not adjusted the deposit rate for this program.

Comment 10—Petitioners argue that the Department was incorrect in determining not to initiate an equityworthiness investigation of ACESITA in 1982, 1983, and 1984. Petitioners argue that their petition contained all reasonably available information to the Department regarding their unequityworthiness allegation, and that the Department is therefore obligated to initiate an investigation and compel the production of evidence from the respondents.

DOC Position—As stated in the Department's May 1, 1992, Equitworthy and Creditworthy Analysis Memorandum; May 4, 1992, Initiation Memorandum; and Notice of Initiation of Countervailing Duty Investigations: Certain Hot-Rolled Lead and Bismuth Carbon Steel Products from Brazil, France, Germany, and the United Kingdom, FR 19884 (May 8, 1992); and as reiterated in the Department's September 10, 1992, Equitworthy and Creditworthy Analysis Memorandum, we determined that information provided by petitioner at the time of initiation was insufficient to demonstrate that equity infusions into ACESITA during 1982, 1983 and 1984 were made on terms inconsistent with commercial considerations. Petitioner has not provided any additional information that would cause us to reconsider our previous determination.

Comment 11—Petitioners argue that the Department was incorrect in excluding the Villares Group, a producer of the subject merchandise, from this investigation. Petitioners argue that the company's request for exclusion

was untimely and did not meet the documentation requirements for justifying and exclusion.

DOC Position—The Villares Group did not request exclusion from this investigation, and it is not excluded from this determination. The Villares Group requested that the Department not require that it respond the questionnaire. We decided that the Villares Group would not be required to respond to the questionnaire because its share of exports of the subject merchandise to the United States is extremely small. We verified the Villares Group's volume and value of exports of the subject merchandise to the United States during the POI.

Even without a response from the Villares Group, we verified responses from companies accounting for almost 100 percent of exports to the United States. While the Department usually attempts to examine those companies in countervailing duty cases which account for 100 percent of imports subject to investigation, nothing in either the statute or the regulations requires the Department to examine any particular percentage of imports or companies in a countervailing duty investigation. Not requiring the Villares Group to respond is consistent with the Department's practice in prior investigations. *See, e.g., Fresh Cut Flowers from Costa Rica*, 52 FR 32030 (August 25, 1987); *Certain Textile Mill Products and Apparel from Malaysia*, 50 FR 9852 (March 12, 1985); *Circular Welded Non-Alloy Steel Pipe from Brazil*, 57 FR 24466 (June 9, 1992).

Exports of subject merchandise from the Villares Group are subject to the country-wide rate calculated in this investigation.

Verification

In accordance with section 776(b) of the Act, we verified the information used in making our final determination. We followed standard verification procedures, including meeting with government and company officials, examination of relevant accounting records, and examination of original source documents. Our verification results are outlined in detail in the public versions of the verification reports, which are on file in the Central Records Unit (Room B–099 of the Main Commerce Building).

Suspension of Liquidation

In accordance with section 705(c) of the Act, we are directing the Customs Service to continue to suspend liquidation of entries of certain additive steel products from Brazil which are entered or withdrawn from warehouse for consumption on or after the date of publication of this notice in the **Federal Register**, and to require a cash deposit or bond of estimated countervailing duties at the following rate:

	Net subsidy rate (percent)	Cash deposit rate (percent)
ACESITA	19.19	19.19
Country-wide Rate	0.82	0.67

ITC Notification

In accordance with section 705(d) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all nonprivileged and nonproprietary information relating to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Deputy Assistant Secretary for Investigations, Import Administration.

If the ITC determines that material injury, or the threat of material injury, does not exist, these proceedings will be terminated and all estimated duties deposited or securities posted as a result of the suspension of liquidation will be refunded or canceled. If, however, the ITC determines that such injury does exist, we will issue a countervailing duty order, directing Customs officers to assess countervailing duties on entries of certain additive steel products from Brazil.

Return or Destruction of Proprietary Information

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 355.34(d). Failure to comply is a violation of the APO.

This determination is published pursuant to section 705(d) of the Act (19 U.S.C. 1671d(d)) and 19 CFR 355.20(a)(4).

Dated: January 19, 1993.

Alan M. Dunn,

Assistant Secretary for Import Administration.

[FR Doc. 93–2001 Filed 1–26–93; 8:45 am]

BILLING CODE 3510–DS–M

[C–427–805]

Final Affirmative Countervailing Duty Determination: Certain Hot Rolled Lead and Bismuth Carbon Steel Products From France

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: January 27, 1993.

FOR FURTHER INFORMATION CONTACT: Julie Anne Osgood or Susan Strumbel, Office of Countervailing Investigations, U.S. Department of Commerce, room 3099, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone (202) 482–0167 or 482–1442, respectively.

Final Determination

The Department of Commerce (the Department) determines that benefits which constitute subsidies within the meaning of the countervailing duty law are being provided to manufacturers, producers, or exporters in France of certain hot rolled lead and bismuth carbon steel products (hereinafter: "certain additive steel products").

For information on the estimated net subsidy, please see the "Suspension of Liquidation" section of this notice.

Case History

Since the publication of the preliminary determination (57 FR 42977, September 17, 1992), the following events have occurred.

Verification was conducted from September 22 through September 30, 1992.

On October 16, 1992, in accordance with section 705(a)(1) of the Tariff Act of 1930, as amended (the Act), we aligned the final determination in this investigation with the final determination in the companion antidumping duty (AD) investigation of the same merchandise (57 FR 48020, October 21, 1992). On November 6, 1992, we postponed the final countervailing duty (CVD) and AD determinations until January 11, 1993 (57 FR 53691, November 12, 1992). On January 11, 1993, we postponed for a second time the final CVD and AD determinations until January 19, 1993 (Not Yet Published).

The parties submitted case and rebuttal briefs on November 23 and December 2, 1992, respectively. A public hearing was held on December 7, 1992.

Scope of Investigation

The products covered by this investigation are hot rolled bars and rods of nonalloy or other alloy steel,

whether or not descaled, containing by weight 0.03 percent or more of lead or 0.05 percent or more of bismuth, in coils or cut lengths, and in numerous shapes and sizes. Excluded from the scope of these investigations are other alloy steels (as defined by the Harmonized Tariff Schedule of the United States (HTSUS) chapter 72, note 1(f)), except steels classified as other alloy steels by reason of containing by weight 0.4 percent or more of lead, or 0.1 percent or more of bismuth, tellurium, or selenium. Also excluded are semi-finished steels and flat-rolled products. Most of the products covered in this investigation are provided for under subheadings 7213.20.00.00 and 7214.30.00.00 of the HTSUS. Small quantities of these products may also enter the United States under the following HTSUS subheadings: 7213.31.30.00, 60.00; 7213.39.00.30, 00.60, 00.90; 7214.40.00.10, 00.30, 00.50; 7214.50.00.10. 00.30, 00.50; 7214.60.00.10, 00.30, 00.50; and 7228.30.80. Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of this proceeding is dispositive.

Respondents

The Government of France (GOF), Usinor Sacilor, and the European Community (EC) are respondents for merchandise subject to this investigation.

Corporate History

At the end of 1986, Usinor and Sacilor, which were separate companies owned by the GOF, were merged to become one holding company called Usinor Sacilor.

Analysis of Programs

For purposes of this final determination, the period for which we are measuring subsidies (the period of investigation (POI)) is calendar year 1991 which corresponds to the fiscal year of Usinor Sacilor.

In determining the benefits received under the various programs described below, we used the following calculation methodology. We first calculated the *ad valorem* benefit for each program received by Usinor Sacilor. The benefits for all programs were then summed to arrive at Usinor Sacilor's total subsidy rate, which, because Usinor Sacilor is the only respondent company in this investigation, equals the country-wide rate.

As a result of the ongoing Countervailing Duty Investigations of Certain Carbon Steel Products from France, we have been made aware of certain programs, not originally investigated in this case, which appear to provide subsidies, *e.g.*, investment subsidies. Nevertheless, we did not have sufficient time to obtain and verify information with respect to these programs. Accordingly, we will address them during the first administrative review of the countervailing duty order in this case, as is contemplated by section 355.39 of the Department's Proposed Regulations (Countervailing Duties; Notice of Proposed Rulemaking and Request for Public Comments, 54 FR 23366 (May 31, 1989) (Proposed Regulations)), assuming a countervailing duty order is issued and an administrative review is requested.

Based upon our analysis of the petition, responses to our questionnaires, verification, and written comments from the interested parties, we determine the following:

Equityworthiness

Petitioners have alleged that Usinor, Sacilor and Usinor Sacilor were unequityworthy for certain years during the period 1979 through 1991, and, therefore, that equity infusions received during those years were inconsistent with commercial considerations. The Department previously determined that Usinor and Sacilor were unequityworthy for the years 1978 and 1981 in Final Affirmative Countervailing Determinations: Certain Steel Products from France, 47 FR 39332 (September 7, 1982) (Certain Steel). Respondents have presented no new evidence in this investigation that contradicts the Department's findings.

Based on the following analysis, we have determined that Usinor, Sacilor, and Usinor Sacilor were unequityworthy during the years 1982 through 1988 and that Usinor Sacilor was equityworthy during 1991. Although petitioners' allegation includes 1989 and 1990, there were no infusions in those years.

Throughout the period 1982 to 1987, Usinor, Sacilor, and Usinor Sacilor reported substantial losses. Stockholders' equity was negative in every year except 1986. Accordingly, certain financial indicators, such as rate of return on assets and equity and profit margin on sales, were negative. Therefore, we determine Usinor, Sacilor, and Usinor Sacilor to be unequityworthy in those years.

However, respondents argue that the Department should place its emphasis on indicators of future financial health as would a private investor, not on past indicators. Respondents argue that the 1986 restructuring, which was undertaken in accordance with a study prepared by McKinsey & Co., had a dramatic effect upon Usinor Sacilor's profitability, making it a firm in which it would be reasonable for investors to invest.

We have analyzed the information on the record with respect to the study prepared by McKinsey & Co. We disagree with respondents that, as a result of this study and its projections, we should ignore all past financial indicators when making our equityworthy determination. In our view, a prudent investor would not assess the reasonableness of investing in the newly restructured company without taking into consideration the tremendous financial difficulties of both companies prior to the restructurings or the reasons for those difficulties. For this reason, and absent any positive financial indicators prior to the restructuring, we have continued to find Usinor Sacilor unequityworthy in 1986 and in 1987 and 1988.

Furthermore, Usinor Sacilor argues that the Department should calculate return on equity using earnings before interest, taxes and depreciation (EBITD) for the numerator. On this basis, Usinor Sacilor has calculated a positive return on equity for the years 1984, and 1987 through 1991. During verification, GOF officials maintained that EBITD is the primary measure in France use to evaluate a company's ability to meet its obligations. (*See* the public version of the Report on the Verification of the Government of France, on file in Room B–099 of the Department of Commerce.) Usinor Sacilor argues that a reasonable investor in France, using Usinor Sacilor's EBITD ratios, would have found Usinor Sacilor to be an excellent investment.

With respect to EBITD, we are not persuaded that it is the best means of measuring the rate of return on equity. While potential investors may consider EBITD, it is not as accurate a reflection of the potential return on an investment as a measure which is net of interest, taxes, and depreciation, *i.e.*, net income. Therefore, we have continued to rely upon the companies' return on assets and return on equity calculated on the basis of net income divided by the average shareholder's equity.

We preliminarily determined that Usinor Sacilor was unequityworthy in 1991 based upon a review of the financial data and a summary of an analysis of Usinor Sacilor performed by an independent Swiss consulting firm. We stated that beginning in 1988, the company reported positive rates of return on both assets and equity for the preceding years, although the financial

position of the firm weakened yearly. However, since the preliminary determination, the complete Swiss consulting report has been submitted for the record and we have been able to evaluate it. Based on our review of the complete report, we have reevaluated Usinor Sacilor's potential for generating a reasonable rate of return within a reasonable period of time and concluded that Usinor Sacilor was equityworthy during 1991.

Creditworthiness

We have analyzed whether Usinor, Sacilor and Usinor Sacilor were uncreditworthy from 1978 through 1991.

Based on our analysis of Usinor's and Sacilor's financial statements, their debt-to-equity ratios indicate that the companies were highly leveraged during 1979 through 1981. In addition, the current and quick ratios indicate low levels of liquidity available to pay debts. Moreover, Usinor Sacilor reported net losses for each of these years. Therefore, although we cannot analyze the companies' actual experience in meeting their debt obligations because no information was provided on this point, the above indicators lead us to conclude that the companies would have had difficulty making interest and principal payments. Given this, we continue to determine that Usinor and Sacilor were uncreditworthy during the years 1978 through 1981.

To determine the creditworthiness of Usinor, Sacilor, and Usinor Sacilor during the period 1982 through 1991, we have evaluated certain liquidity and debt ratios, *i.e.*, current and quick, times interest earned, long-term debt, and debt-to-equity on a consolidated basis. For the period, 1979 through 1987, the company consistently incurred substantial losses. The interest coverage ratios were negative and the liquidity ratios indicated that the company may have had difficulty in meeting its short-term obligations. Although Usinor Sacilor reported a profit in 1988, as a result of our analysis, we determine that Usinor, Sacilor, and Usinor Sacilor were uncreditworthy for the years 1982 through 1989.

Respondents have argued that when determining the creditworthiness of a company, the Department must consider the extent to which the company was able to obtain loans from private sources without government assistance or guarantees. Respondents argue that Usinor and Sacilor, in fact, had obtained such loans since 1978. However, respondents have provided no information with respect to the nature of the loans from private sources nor whether Usinor, Sacilor, or Usinor Sacilor were able to obtain this private debt without government assistance and/or guarantees. Therefore, we have not considered the extent of Usinor Sacilor's private borrowings in determining whether Usinor Sacilor was creditworthy.

Respondents have further argued that the 1986 restructuring greatly improved Usinor Sacilor's outlook, making it a better risk for lenders as well as for investors. In contrast, petitioners maintain that Usinor Sacilor's return to profitability should be ignored because it was primarily the result of subsidies provided in 1986 and 1988.

With respect to respondent's arguments, we disagree that a lender would rely solely on future profitability resulting from restructuring. With respect to petitioner's arguments regarding the past subsidies received by Usinor Sacilor, past practice and our regulations do no allow us to consider the effect of past subsidies when making a determination as to whether a firm is creditworthy, as is set forth in § 355.44(b)(6)(iii) of the Department's Proposed Regulations.

Our review of the financial statements and certain ratios for the years 1990 through 1991, as well as the prior three years, indicates that Usinor Sacilor was able to generate sufficient cash flow to meet its current and long-term obligations. Therefore, we continue to determine that Usinor Sacilor was creditworthy during these years.

Equity Methodology

According to section 355.49(e) of the Department's Proposed Regulations the Department measures the benefit of equity investments in "unequitworthy" firms by comparing the national average rate of return on equity with the company's rate of return on equity during each year of the allocation period. The difference in these amounts, the so-called rate of return shortfall (RORS), is then multiplied by the amount of the equity investment to determine the countervailable benefit in the given year.

The Department has concluded that the RORS methodology does not provide an accurate measure of the benefits arising from government equity investments in unequityworthy companies. When the Department finds that a company is unequityworthy and, hence, that the government's equity investment is inconsistent with commercial considerations, we are effectively finding that the company could not attract share capital from a reasonable investor. When a company is in such poor financial condition that it cannot attract capital, any capital it receives benefits the company as if it were a grant and no earnings of the company in subsequent years should be used to offset the benefit.

Moreover, in calculating the company's rate of return, no adjustment is made to eliminate the effect of past or current subsidies. Therefore, those subsidies that increase the company's rate of return serve to reduce the amount of the subsidy arising from government equity investments in subsequent years. In addition, this method does not compensate for the effect of prior year results on equity in subsequent years, thus measuring the rate of return against an equity other than that invested in the transaction in question.

For these reasons, we have determined that equity investments in unequityworthy companies will be treated as grants given in the year of the equity investment. Accordingly, we will value the benefit using the grants methodology described below.

Where a market-determined benchmark price for equity exists, we will continue to use that benchmark to determine whether the government's purchase of equity confers a subsidy and to measure the amount of the subsidy.

Grant Methodology

Our policy with respect to grants is (1) to expense recurring grants in the year of receipt, and (2) to allocate non-recurring grants over the average useful life of assets in the industry, unless the sum of grants provided under a particular program is less than 0.5 percent of a firm's total or export sales (depending on whether the program is a domestic or export subsidy) in the year in which the grant was received. See, e.g., Final Affirmative Countervailing Duty Determination; Fresh and Chilled Atlantic Salmon from Norway, 56 FR 7678 (February 25, 1991) (Salmon from Norway).

We have considered the grants provided under the programs described below to be non-recurring, unless otherwise noted, because the benefits are exceptional, the recipient cannot expect to receive benefits on an ongoing basis from review period to review period, and/or the provision of funds by the government must be approved every year. See, Final Affirmative Countervailing Duty Determination; Certain Fresh Atlantic Groundfish from Canada, 51 FR 10041 (March 24, 1986) (Groundfish from Canada). Therefore, we have allocated the benefits over 15 years, which the Department considers to be reflective of the average useful life

of assets in the steel industry (see section 355.49(b)(3) of the Proposed Regulations).

The benefit from each of the grant programs discussed below was calculated using the declining balance methodology described in the Department's Proposed Regulations (see section 355.49(b)(3)) and used in prior investigations (see e.g., Salmon from Norway). For the discount rate used in these calculations, we used the lending rates published in the International Monetary Fund's International Financial Statistics because Usinor Sacilor did not report its actual cost for long-term, fixed-rate debt. Since Usinor Sacilor was uncreditworthy in the years in which all grants were approved we have used the highest annual interest rate reported in the IMF publication and have added a risk premium to the benchmark interest rate in accordance with section 355.44(b)(6)(iv) of the Proposed Regulations.

Specificity

When receipt of benefits under a program is not contingent upon exportation, the Department must determine whether the program is specific to an enterprise or industry, or group of enterprises or industries. Under the specificity analysis, the Department examines both whether a government program is limited by law to a specific enterprise or industry, or group thereof (*i.e., de jure* specificity) and whether the government program is in fact limited to a specific enterprise or industry, or group thereof (*i.e., de facto* specificity). See section 771(5)(B) of the Act. In section 355.43(b)(2) of the Department's Proposed Regulations, the Department has set forth the factors that may be considered in determining whether there is specificity:

(i) The extent to which a government acts to limit the availability of a program;

(ii) The number of enterprises, industries, or groups thereof that actually use a program;

(iii) Whether there are dominant users of a program, or whether certain enterprises, industries, or groups thereof receive disproportionately large benefits under a program; and

(iv) The extent to which a government exercises discretion in conferring benefits under a program.

See also Final Affirmative Countervailing Duty Determination: Certain Softwood Lumber Products from Canada, 57 FR 22570 (May 28, 1992).

I. Programs Determined To Confer Subsidies

We determine that subsidies are being provided to manufacturers, producers, or exporters in France of certain additive steel products as follows:

A. Equity Infusions and Grants

Loans with Special Characteristics (PACS)

A plan was agreed upon in 1978 to help the principal steel companies, Usinor, Sacilor, Chatillon-Neuves-Maisons, and their subsidiaries, restructure their massive debt. This plan entailed the creation of a steel amortization fund, called the Caisse d'Amortissement pour l'Acier (CAPA) for the purpose of assuring repayment of funds borrowed by these companies prior to June 1, 1978. In accordance with the restructuring plan of 1978, bonds previously issued on behalf of the steel companies and pre-1978 loans from Credit National and Fonds de Developpement Economique et Social (FDES) were converted into PACS. As a result of this process, the steel companies were no longer liable for the loans and bonds, but did take on PACS obligations.

According to the responses, PACS were an instrument akin to redeemable subordinated nonvoting preferred stock. Respondents state that PACS would be included in the shareholders' equity on the balance sheet, and had the following characteristics: (1) a 0.10 percent remuneration for the first five years and 1.0 percent thereafter, (2) no schedule of reimbursement but in the event the steel companies became profitable, the PACS holders could elect to redeem their PACS or share in profits according to a predetermined formula, and (3) PACS were subordinated to all but the common stock.

In 1978, Usinor and Sacilor converted 21.1 billion French francs (FF) of debt into PACS. From 1980 to 1981, Usinor and Sacilor issued FF8.1 billion of new PACS. PACS in the amount of FF13.8 billion, FF12.6 billion and FF2.8 billion were converted into common stock in 1981, 1986 and 1991, respectively.

Fonds d'Intervention Siderurgique (FIS)

The 1981 Corrected Finance Law granted Usinor and Sacilor the authority to issue convertible bonds. The FIS, or steel intervention fund, was created by a decree of May 18, 1983, in order to implement that authority. According to the responses, Usinor and Sacilor issued convertible bonds to the FIS, which, in turn, with the GOF guarantee, floated bonds to the public and to institutional investors.

In 1983, 1984, and 1985, Usinor and Sacilor issued convertible bonds to the FIS. These FIS bonds were converted to common stock in 1986 and 1988.

Shareholders' Advances

According to the responses, the GOF financed the revenue shortfall needs of Usinor and Sacilor through shareholders' advances beginning in 1982. These shareholders' advances carried no interest and there was no precondition for receipt of these funds. The responses indicated that, consistent with the GOF's policy of full adherence to the EC State Aids Code, and with the GOF's private investor policy articulated by President Mitterrand in 1984, the GOF, in 1986, paid out the last of the advances it had made under this program.

All of these advances were converted to common stock in 1986.

In 1981, 1986, 1988, and 1991, virtually all the common stock purchased through conversions of PACS, FIS bonds and shareholder's advances was offset against company losses, with the result of reducing paid-in capital. In the preliminary determination, we concluded that the benefit was realized at the time of the reduction in paid-in-capital and we treated each reduction in paid-in-capital as a grant.

We have reconsidered the approach taken in the preliminary determination and, consistent with the equity methodology adopted in these investigations, we have concluded that any benefits to Usinor Sacilor occurred at the point when these instruments were converted to common stock. Because the equity methodology does not recognize the subsequent performance of the company receiving the equity investment and treats the equity investment as a grant, the later write-off of the equity is irrelevant.

As discussed above, we have determined that Usinor Sacilor was unequityworthy from 1981 through 1988 and equityworthy in 1991. As a result, we consider the conversion of PACS to common stock in 1981 and 1986 to constitute equity infusions on terms inconsistent with commercial considerations. Similarly, we consider the conversion of FIS bonds to common stock in 1986 and 1988 to constitute equity infusions on terms inconsistent with commercial considerations. However, the PACS to equity conversion in 1991 was consistent with commercial considerations.

Petitioners argue that Usinor Sacilor received benefits from the PACS converted in 1991, for the portion of the POI they were outstanding. We disagree.

Benefits from equity infusions are not prorated to correspond to the number of months the firm benefitted from the equity in the year of the infusion. Therefore, it is appropriate to consider that the only benefit that could arise during the POI was that potentially conveyed by the 1991 PACS-to-equity conversion. To assign loan and potential equity benefits during the same year would lead to excess countervailing duties.

Consistent with the equity methodology adopted in this investigation, we followed the grant methodology outlined above for allocating the benefits from the equity infusions stemming from conversion of PACS and FIS bonds.

With respect to shareholders' advances, we have determined that shareholders' advances constitute countervailable grants at the time they were received as no shares were distributed in return for these advances when they were made to Usinor and Sacilor.

We calculated the benefit from shareholders' advances for the POI using the grant methodology discussed above. We then added the benefits accruing from PACS, FIS bonds and shareholders' advances. We divided this total benefit by Usinor Sacilor's total sales, excluding sales of non-French produced merchandise and shipment expenses on domestic sales. On this basis, we calculated an estimated net subsidy of 22.28 percent *ad valorem*.

Equity Infusion in 1978

Based on information provided in the Changes in Capital exhibits in the responses, it is evident that the GOF provided an infusion of capital to Usinor and Sacilor in 1978. Given that we have determined that Usinor and Sacilor were unequityworthy in 1978, this equity infusion was provided on terms inconsistent with commercial considerations.

Consistent with the decision concerning equity methodology adopted in this investigation, we followed the grant methodology outlined above for allocating the benefits from this equity infusion in 1978. We divided this benefit by Usinor Sacilor's total sales, excluding sales of non-French produced merchandise and shipment expenses on domestic sales. On this basis, we calculated an estimated net subsidy of 0.04 percent *ad valorem*.

B. Long-Term Loans From FDES and CFDI

The Law of July 13, 1978, created participative loans (prets participatifs) which were by law available to all French companies. Under these loans, which were issued by the FDES and the Caisse Francaise de Developpement Industriel (CFDI), the borrower paid a lower-than-market interest rate plus a share of future profits according to an agreed upon formula. These loans were obtained by either Usinor, Sacilor, or their subsidiaries.

Loans From FDES

On July 1, 1990, the outstanding principal on the FDES loans to Usinor and Sacilor was consolidated into multiple long-term loans. We consider these consolidated loans to be new loans.

In these investigations, the GOF has provided the total distribution of participative FDES loans for 1981 through 1990. It does not appear that the new 1990, consolidated loans for Usinor Sacilor are included in this information. The information provided only seems to relate to participative loans rather than the types of loans obtained by Usinor Sacilor in 1990. Indeed, the information provided indicates that the consolidated amounts exceeded the total amount of FDES loans distributed to all sectors of the economy for the years 1987, 1988, and 1989 combined.

Therefore, lacking information on whether the FDES consolidated loans are limited to a specific enterprise or industry or group of enterprises or industries, we have determined that the 1990 consolidated loans are *de facto* limited. Accordingly, Usinor Sacilor's FDES loans are countervailable to the extent that they were provided on terms more favorable than the benchmark financing.

We have used as the benchmark and the discount rate the private bond interest rate reported in the OECD Financial Statistics publication for 1990. Because we have determined that Usinor Sacilor was creditworthy during 1990, we did not add a risk premium to the benchmark interest rate. We then compared this benchmark financing to the financing provided by FDES and found that the FDES loans were provided on more favorable terms than the benchmark financing. Therefore, we determine that Usinor Sacilor's loans are countervailable.

To calculate the benefit from these loans, we employed our normal long-term loan methodology as described in section 355.49(c)(1) of the Department's Proposed Regulations. (See also Final Affirmative Countervailing Duty Determination: Certain Granite Products from Spain, 53 FR 24340 (June 28, 1988).) We divided the benefit attributable to the POI by Usinor Sacilor's total sales, excluding sales of non-French produced merchandise and shipment expenses on domestic sales. On this basis, we calculated an estimated net subsidy of 0.02 percent *ad valorem*.

Loans from CFDI

In 1991, outstanding loans to Usinor Sacilor from CFDI were consolidated. These consolidated loans carried new terms and conditions. Therefore, we are treating these consolidations as new loans in 1991.

Because we are treating these as new loans taken out in 1991, no interest would be due until 1992. Hence, there would be no cash flow effect until 1992. Only at that time would any potential subsidy from these loans be realized. However, the old loans which were consolidated in 1991 were outstanding during a portion of the POI and potentially give rise to a benefit.

Although the GOF has claimed that loans from CFDI are not limited to a specific enterprise or industry or group of enterprises or industries, no supporting evidence has been provided other than a short letter from CFDI. This letter does not provide any showing that the loans are non-specific. Therefore, we determine that CFDI loans are *de facto* limited to a specific enterprise or industry or group of enterprises or industries and that they are countervailable to the extent that they were provided on terms inconsistent with commercial considerations.

For those years in which Usinor, Sacilor, and Usinor Sacilor were uncreditworthy, we have used as the benchmark and the discount rate the same interest rate as described in the Grant Methodology section above. For those years in which Usinor, Sacilor, and Usinor Sacilor were creditworthy, we have used as the benchmark the interest rate described in the "Long-Term Loans from FDES" section above.

Comparing the appropriate benchmark financing with the CFDI financing received by Usinor, Sacilor, and Usinor Sacilor, we found that CFDI loans did provide a benefit during the POI. Therefore, we determine that Usinor and Sacilor's loans are counteravailable.

To calculate the benefit from these loans, we employed our normal long-term loan methodology as described above under the FDES Program. We divided the benefit attributable to the POI by Usinor Sacilor's total sales, excluding sales of non-French produced merchandise and shipment expenses on domestic sales. On this basis, we calculated an estimated net subsidy rate of 0.48 percent *ad valorem*.

C. Repaid PACS

In the 1978 restructuring, part of the loans made by the private majority shareholders were converted to PACS. In Certain Steel, the Department considered these PACS to be debt and stated that because they were created under the government-directed Rescue Plan of 1978 and were specific to the steel companies, the PACS conferred countervailable benefits.

Sacilor's former majority shareholder redeemed its PACS in 1989. Although Sacilor paid no interest on the PACS, the full value was repaid. Therefore, we are treating this as a zero interest loan where benefits expired prior to the POI.

PACS issued by Usinor to its former majority shareholder were essentially written off in 1981 at a redemption value of FF100. Accordingly, we are treating the difference between the original shareholder's advance and the amount repaid as a nonrecurring grant. We have applied the grant methodology discussed above to calculate the benefit. We divided this benefit by Usinor Sacilor's total sales, excluding sales of non-French produced merchandise and shipment expenses on domestic sales. On this basis, we calculated an estimated net subsidy of 0.01 percent *ad valorem*.

D. European Coal and Steel Community (ECSC) Article 54 Loans

Article 54 industrial investment loans are provided for the purpose of purchasing new equipment or financing modernization. These loans are direct loans from the European Commission and are made at interest rates slightly higher than those paid by the Commission in obtaining funds. The purpose of this program is to facilitate the borrowing process for companies in the ECSC, some of which may not otherwise be able to obtain these loans. These loans are only available to the iron and steel industries.

Based on information provided in the responses, we preliminarily determined that this program was not used. However, at verification we learned that Unimetal, the actual producer of the subject merchandise, had loans outstanding under this program during the POI.

Because Article 54 loans are limited to the iron and steel industries, we determine that this program is limited to a specific enterprise or industry or group of enterprises or industries. Therefore, these loans are counteravailable to the extent that they are provided on terms inconsistent with commercial considerations.

We have used as the benchmark the interest rate described in the Grant Methodology section above. We then compared the appropriate benchmark financing to the financing Unimetal received through the EC and found that these loans were provided on terms inconsistent with commercial considerations. Therefore, we determine that Unimetal's Article 54 loans are counteravailable.

To calculate the benefit from these loans, we employed the long-term loan methodology described above in our discussion of "Long-Term Loans from FDES." We divided this total benefit by Unimetal's total sales. On this basis, we calculated an estimated net subsidy of 0.03 percent *ad valorem*.

E. ECSC Redeployment Aid (Article 56(2)(b))

Under Article 56(2)(b) of the ECSC Treaty, individuals employed in the coal and steel industries who lose their jobs may receive assistance for social adjustment. This assistance is provided for workers affected by restructuring measures, particularly as workers withdraw from the labor market into early retirement or are forced into unemployment. The ECSC disburses assistance under this program on the condition that the affected country makes an equivalent contribution. Funds for the ECSC portion of these payments are from the ECSC operational budget, made up entirely of levies on ECSC companies.

Since the ECSC portion of payments under this program comes from its operational budget, we determine the portion of payments provided by the ECSC to be not countervailable. However, we are countervailing the matching contributions by member state governments to the extent that their payments relieve companies of obligations they would otherwise incur.

In Usinor Sacilor's response, it stated that the ECSC disbursed funds under this program to the GOF during the POI. At verification, company officials stated that Usinor Sacilor did not receive any funds under this program during 1991. However, officials did not provide any documentation supporting this claim. Given the lack of documentation establishing that Usinor Sacilor did not receive funds under this program, we have applied best information available and concluded that the ESCS funds were in fact disbursed to the GOF during the POI and that the GOF would have disbursed an equal amount of funds to Usinor Sacilor during the POI. See, *e.g.*, Portland Hydraulic Cement and Cement Clinker from Mexico; Final Results of Countervailing Duty Administrative Review, 53 FR 18325 (May 23, 1988); Final Affirmative Countervailing Duty Determination; Standard Carnations from Chile, 52 FR 3313 (Feb. 3, 1987); Certain Steel Products from South Africa; Final Results of Countervailing Duty Administrative Review, 51 FR 33648 (Sept. 27, 1986).

Due to the lack of information provided at verification, we are further assuming that these payments relieved the company of obligations it would otherwise incur. On this basis, we have determined that the GOF's matching contributions have provided a countervailable benefit to Usinor Sacilor. See *e.g.*, Wool From Argentina; Final Results of Countervailing Duty Administrative Review, 52 FR 23196 (June 18, 1987); Final Affirmative Countervailing Duty Determination; Fresh Cut Flowers from Ecuador, 52 FR 1361 (Jan. 13, 1987); Certain Steel Products from South Africa; Final Results of Countervailing Duty Administrative Review, 51 FR 33648 (Sept. 22, 1986).

Finally, we consider this program to provide recurring benefits because it is one under which recipients can expect to receive benefits on an ongoing basis year after year. Therefore, we expensed the payments provided under this program by the GOF in 1991. We divided the total benefit by Usinor Sacilor's total sales, excluding sales of non-French produced merchandise and shipment expenses on domestic sales. On this basis, we calculated an estimated net subsidy of 0.28 percent *ad valorem*.

II. Programs Determined Not To Be Countervailable

We determine that the following programs do not provide subsidies to manufacturers, producers, or exporters in France of certain additive steel products under the following programs:

A. Loans From Credit National

Credit National is a financial institution with a structure based on four core-businesses, corporate lending, capital markets, equity financing and real estate activities.

In 1991, outstanding loans to Usinor Sacilor from Credit National were consolidated. Consistent with our treatment of the FDES loans, we are treating these consolidations as new loans in 1991 because they carried new terms and conditions.

To determine whether the consolidated loans were provided to a specific enterprise or industry or group of enterprises or industries, we have examined the factors discussed in the Specificity section above. With respect to *de jure* availability, the law creating

Credit National does not in any way limit the industries to which loans can be made. With respect to *de facto* availability, Credit National's Annual Report (1991) demonstrates that loans in the year in which these consolidations were completed were in fact provided to numerous sectors and were not disproportionately provided to the steel industry. Industries which received Credit National loans included hotel, leisure and tourism, retailing and health care, chemicals, energy and metals, agribusiness, and mechanical engineering, automotive, aerospace, and transportation, and several others. The chemicals, energy and metals sector, of which steel is a part, received 10.51 percent of all Credit National loans approved in 1991. Finally, we verified that an independent committee, composed of experts from various industries, evaluates loan applications and makes recommendations to Credit National with respect to their viability. The committee assesses this viability based on neutral criteria. Recommendations made by the committee are then accepted by Credit National.

Based on this, we determine that the consolidated 1991 loans from Credit National were not provided to a specific enterprise or industry or group of enterprises or industries, and, therefore, are not countervailable.

B. Assistance for Research and Development

The Institute de Recherches de la Siderurgie Francaise (IRSID) is a non-profit organization that is funded by contributions from each subsidiary of Usinor Sacilor. At verification, we established that the GOF provides a very small amount of funds for fundamental research as well as some basic research and that the results of this research are published. Therefore, because the results of the research projects are made publicly available, we find this program to be not countervailable.

III. Program Determined Not To Be Used

We determine that the following programs were not used by manufacturers, producers, or exporters in France of certain additive steel products:

A. *ECSC Article 54 Interest Rebates and Loan Guarantees*

B. *ECSC Article 56 Conversion Loans (Article (56)(2)(a))*

C. *ECSC Article 56 Interest Rebates*

D. *European Investment Bank (EIB) Loans*

E. *New Community Investment (NCI) Loans*

Comments

Comment 1

Petitioners contend that the Department correctly treated as grants to the company, the reductions of Usinor Sacilor's paid-in-capital occurring after PACS, FIS bonds, and shareholders' advances were converted to common stock. Petitioners further contend that all of these subsidies are "non-recurring" and must be allocated over a period of years. Petitioners argue specifically that each reductions in paid-in-capital was a separate, *ad hoc* decision made pursuant to a series of national steel plans enacted by the GOF from 1978 to 1983. Petitioners contend that far from undertaking a continuing program, the GOF was simply forced, by a series of annual crises caused by bad planning and over-optimistic projections to provide the money necessary to keep Usinor Sacilor in business. Petitioners further contend that although the GOF was forced into covering Usinor Sacilor's accumulated losses past the EC deadline for the termination of state aids, the company could not have anticipated the continuing receipt of these benefits. Therefore, petitioners argue that Usinor Sacilor's reductions in paid-in-capital were exceptional non-recurring grants.

Respondents argue that the reduction in paid-in capital on Usinor Sacilor's books were not countervailable events because these reductions did not involve the injections of any *new* funds into the companies. Consistent with the Department's cash flow methodology, respondents argue that the cash flow effect occurred when PACS were issued, either directly for cash or by relieving Usinor Sacilor of obligations to pay creditors, and when FIS instruments and shareholders' advances were issued and provided, respectively. Respondents argue that countervailing the reductions in paid-in capital would result in the attribution of benefits in excess of those conceivably involved.

DOC Position

We disagree with petitioners that the reductions in paid-in-capital constitute subsidies. Rather, the countervailable events occurred when PACS and FIS bonds were converted to common stock. As our new equity methodology recognizes, any potential benefits from these equity investments into an unequityworthy company, arose at the time the equity was purchased and what happened to that equity subsequently is irrelevant. Moreover, because our new methodology treats equity investments in unequityworthy companies like grants, constructing a new benefit at the time of the reduction of paid-in-capital would result in over-countervailing. As to shareholders' advances, we are treating them as grants when made, and have not countervailed separately the subsequent stock conversion or reduction in paid-in-capital.

We need not address petitioners' argument that the reductions in paid-in-capital are non-recurring (as opposed to recurring) grants. As we explained above, we do not consider the reductions in paid-in-capital to be countervailable events.

Finally, contrary to respondents' argument, to the extent that it still may be applicable in light of our above determinations, we are not over-countervailing. As to the conversion of PACS and FIS bonds into common stock, respondents' argument is premised on the assumption that PACS and FIS bonds were equity when created. As we explain in Comments 2 and 4 below, we have concluded that they were debt. As to shareholders' advances, we are countervailing them only when made and, therefore, there is no possibility of over-countervailing.

Comment 2

Respondents argue that PACS should be recognized as involving capital infusions upon issuance, the only time when there was a cash flow effect on the company. The PACS were considered to be a form of non-voting equity for funding the steel industry. Respondents assert that PACS were initially treated as "quasi-equity" on the companies' balance sheets, and they were the functional equivalent of equity. Respondents contend that PACS were not subject to repayment obligations and, because they were subordinated to all but common stock, PACS entitled their holder, the GOF, to dividends only if the companies showed a net profit. Respondents also argue that the PACS were characterized as equity in the companies' financial reports.

Respondents disagree with petitioners' assertion that the Department should treat PACS as debt because they were called "loans with special characteristics" and because they were sometimes characterized as loans on Usinor Sacilor's balance sheets. Respondents contend that such an approach ignores the salient fact that the PACS did not have any characteristics of debt. Specifically, respondents state that the GOF could choose to deem its share of profits as supplemental remuneration on the PACS or it could allot a share of profits to repayment. Respondents contend that this sort of participative right is not characteristic of debt but rather the essential

characteristic of equity. Finally, respondents argue the fact that the GOF never took repayment on these PACS (either as supplemental remuneration or repayment) demonstrates that they lack characteristics of a debt instrument which would require payments regardless of the obligor's profitability.

Petitioners argue that PACS as originally issued constituted debt and not equity, as the Department held in *Certain Steel*. Petitioners assert that PACS carried a fixed rate of interest while outstanding and that although there was no fixed repayment schedule, the companies made lump sum interest payments on the debt obligations in 1986 and in 1991. Petitioners contend that Usinor and Sacilor elected to classify the instruments as long-term financial debt on the companies' balance sheets pursuant to French generally accepted accounting principles.

Petitioners further argue that the right to participate in future profits was actually a contingent right to demand repayment of the face value of the obligations should the company become profitable. Petitioners contend that unlike preferred stock, which confers an unlimited right to share in profits, PACS merely stated a preference in the allocation of future earnings to pay off the debt and contemplated only a reimbursement of the face value of the PACS plus interest. Therefore, petitioners contend that because PACS have the characteristics of debt, the Department should treat it as such.

DOC Position

We have continued to treat PACS as debt, not equity. While we agree with respondents that the PACS shared certain characteristics with equity, they differed from equity in one crucial respect—they carried with them an obligation for repayment. This obligation only expired at the time the PACS were converted to common stock. The obligation to repay, whether met or not, is sufficient to warrant treating these instruments as debt.

With respect to respondents' cash flow argument, we agree that the PACS had an effect on the companies' cash flow. However, while the PACS were outstanding, the cash flow effect was the interest savings the companies received by virtue of paying reduced interest rates for the use of the funds. Upon conversion of the PACS to common stock, the cash flow effect was that of a grant.

Comment 3

Respondents argue that the 1986 reclassification of PACS to equity was approved by the EC Commission on the condition that Usinor Sacilor continue to be responsible for the remuneration due under the terms of the PACS. In addition, Usinor Sacilor paid an amount to the GOF, which represented the present value of the one percent remuneration of the FF2.8 billion PACS reclassified in 1991. Accordingly, respondents maintain that these payments must offset any subsidy calculation made.

DOC Position

The remuneration described by respondents amounts to prepayment of interest on the PACS and would be accounted for in subsidies calculations on the PACS as loans. However, as these loans expired prior to the POI by virtue of their conversions to equity, no subsidies arising from the PACS are included in our calculations.

Comment 4

Respondents maintain that FIS instruments were convertible securities that should be recognized as involving capital infusions upon issuance. Respondents contend that although the face amount which the FIS paid for the instruments was nominally subject to a repayment schedule, the FIS instruments, like the PACS, were essentially equity instruments and effectively represented a permanent commitment of funds by the GOF (through the FIS) to Usinor Sacilor.

Respondents further argue that the remuneration rate obviously was not a mechanism by which the FIS recouped its financing costs. Rather, respondents contend that the essential compensatory element of the instrument was a profit-sharing component akin to that on common stock. Respondents argue that these instruments, like the PACS, had the essential characteristics of equity rather than debt.

Petitioners contend that FIS bonds had the defining characteristics of debt: an obligation to repay funds that had been advanced pursuant to a fixed amortization schedule and with a fixed rate of interest. Petitioners argue that the profit-sharing component, in addition to the fixed interest provision on FIS bonds, are not unique to equity instruments.

Petitioners further maintain that Usinor Sacilor classified the instruments as financial debt on their balance sheets, and this treatment fully conformed to French generally accepted accounting principles. Thus, petitioners contend that from the perspective of Usinor Sacilor at the time the instruments were issued, FIS bonds were debt securities and not shareholders' equity.

DOC Position

We disagree with respondents that these instruments were essentially equity at issuance. Like the PACS, the FIS instruments carried repayment obligations. Therefore, for the reasons discussed in our response to Comment 2, we have continued to treat the FIS instruments as debt prior to their conversion to common stock.

Comment 5

Respondents argue that shareholders' advances were recurring grants that should be expensed in the year they were received. Respondents contend that shareholders' advances provided by the GOF plainly satisfy the Department's three-part test for distinguishing a recurring benefit from a non-recurring benefit. First, respondents argue that the shareholders' advances provided by the GOF do not fall within the Department's definition of an "exceptional program," as described in Live Swine and Fresh, Chilled and Frozen Pork Products from Canada, 50 FR 25097 (June 17, 1985) (Live Swine), but were routinely provided. Second, respondents argue that these advances, provided on a routine basis for five consecutive years, were more "longstanding" than the grants provided in Live Swine, which the Department treated as recurring grants. Finally, respondents argue that it is evident that Usinor and Sacilor had to, and in fact did, anticipate receiving the benefits year after year. These payments were curtailed only at the time of the adoption of the EC State Aids Code in 1986.

Petitioners refute respondents' argument that shareholders' advances were recurring benefits and should be expensed in the year of receipt. Petitioners contend that in Live Swine the government used a pre-set formula to determine whether payments were authorized in any given year and to set the level of the payments. Petitioners argue that unlike Live Swine, the funds provided by the GOF were not mandated by legislation or by specific agreement. Petitioners contend as a result that there was no contract or legally enforceable obligation. Usinor and Sacilor could not have anticipated the continuing receipt of these benefits because the GOF could have terminated the program at any time. Petitioners argue that each advance was a separate, *ad hoc* decision by the government and the amounts varied from month-to-month. Thus, petitioners contend that shareholder advances constitute non-

recurring benefits under the Department's methodology and should be evaluated accordingly.

DOC Position

We have determined that shareholders' advances should be treated as non-recurring grants. Although Usinor and Sacilor received shareholders' advances on a regular basis during the years 1982 through 1986, each advance required specific shareholders' approval. Moreover, these shareholders' advances were made to cover operating losses. Repeated shareholders' advances made to keep a company from dissolving are "exceptional" events, within the meaning of Live Swine. Therefore, under the Department's methodology, we are treating the shareholders' advances as non-recurring.

Comment 6

Petitioners contend that on numerous occasions, the GOF wrote-off portions of Usinor's and Sacilor's debt by converting debt into equity, and then simultaneously cancelling this new equity by using it to offset accrued losses. Petitioners maintain that most of these funds were in the form of debt—PACS, FIS bonds, and shareholders' advances. Petitioners argue that these transactions were ostensibly structured as debt-to-equity conversions; however, no new shares were ever issued or other obligations incurred. In essence, petitioners argue that these transactions were simply debt cancellations intended to relieve Usinor and Sacilor of their enormous debt burdens.

DOC Position

Given our decision to treat equity infusions in unequityworthy companies like grants and our finding that Usinor Sacilor was unequityworthy in 1986, the conversions of PACS and FIS bonds to common stock have been countervailed using the same methodology that would be used if the conversion were treated as debt forgiveness. With respect to shareholders' advances, we treated them as grants to the time of receipt. We have no evidence showing that the parties contemplated that the shareholders' advances carried a repayment obligation. Therefore, we do not view them as loans that were subsequently converted to equity or loans that were cancelled.

Comment 7

Petitioners maintain that in the case of a wholly government-owned company such as Usinor Sacilor, there is no economic difference whatsoever between funds provided as grants, loans, or equity. In such a company, the government owns the entire right to all future earnings, and has a total claim on all the company's assets both before and after it provides funds. Therefore, petitioners argue that the Department should apply the standard non-recurring grant amortization methodology to measure the benefits from these forms of subsidies.

Moreover, the RORS methodology yields absurd results in this case because Usinor Sacilor canceled enormous amounts of paid-in-capital from 1978 to 1988 as part of the company's balance sheet restructurings. As a result, a rate of return calculated on such a reduced base of stockholders' equity would be meaningless. This calculated rate of return on equity would ignore most of the equity actually invested in Usinor Sacilor, and RORS would badly overestimate the actual return on the equity contributed by the GOF.

According to respondents, petitioners' arguments for rejecting the RORS methodology are based on two faulty assumptions. First, petitioners assume that a determination by the Department that a company is unequityworthy implies that the company can raise no additional capital in private equity markets. According to respondents, a company can attract equity capital by varying its price or its return, such that its return will be sufficient to attract private investment. This suggests that if a company is able to obtain any private capital through sale of equity, it should *per se* be considered equityworthy. Under this standard, Usinor Sacilor would be *per se* equityworthy in 1986 when it sold stock to private investors.

In response to petitioners' argument that RORS does not measure the benefit to the firm on the grounds that the issuance of new equity is supposedly costless to a wholly government-owned firm, respondents argue that there is a cost associated with raising new equity capital. Respondents argue that according to the Court of International Trade, "[u]nder Commerce's methodology, the measure of what a firm 'pays' for equity is its rate of return on equity * * *. The rate of return on equity reflects the price the firm must offer to attract equity, any dividends paid, and changes in the company's retained earnings and net worth." In addition, respondents argue that because it is not possible to measure accurately the aggregate benefit at the time the equity purchase is made, the RORS methodology calculates the benefit to the firm each year to ensure that the proper amount is countervailed.

Finally, respondents points out that the courts have confirmed the Department's use of the RORS methodology as consistent with the countervailing duty law.

DOC Position

As explained above, we have determined that the RORS methodology does not adequately measure the benefit arising from an equity investment in an unequityworthy company. If we find a company to be unequityworthy, that finding is tantamount to saying that a reasonable investor would not invest in that company. Therefore, from the company's point of view, in this circumstance, any equity capital it receives from the government is equivalent to a grant.

As for respondents' argument that the effect of the Department's decision is to render a company equityworthy whenever private investment occurs, we note that where meaningful private investment (*i.e.*, more than a token amount that is not undertaken at government direction) exists, we would not be making an equityworthy analysis. The private investor's action would serve as a benchmark for determining whether the government's investment was made on terms inconsistent with commercial considerations.

With respect to respondents' argument that RORS measures what a firm would have paid for equity, we disagree. To determine whether an equity investment is inconsistent with commercial considerations and to measure the benefit properly, it would be necessary to determine the expected rate of return the company would have to generate to attract a private investor and compare that to the company's actual expected rate of return at the time of the government equity investment. Because of the difficulty in calculating expected rates of return, the Department in the past used the RORS methodology as a proxy. However, we have now determined that this proxy is inadequate because it necessarily reflects the subsequent performance of the company. As explained above in connection with our decision not to view equity cancellations as new subsidies, potential subsidies arise from the equity investment and not what happens to that equity subsequently.

Finally, we also disagree with petitioners that equity, loans and grants in wholly-owned government firms should be treated identically. Equity investments, unlike grants, do represent a claim on the company and even in a wholly government-owned company, equity investments are normally based upon some expectation of return.

Therefore, we continue to recognize a difference between grants and equity investments in wholly government-owned companies.

Comment 8

Respondents argue that a 10-year period for allocating subsidies over time would provide greater relief to U.S. industry by heightening the impact of any subsidy determination, while assuring that foreign producers are not penalized for subsidies received so far in the past that they no longer confer any tangible benefit. Respondents also argue that the application of a 10-year period would be particularly appropriate in this case, given that the U.S. steel industry negotiated for and received 10 years of extraordinary import relief in exchange for withdrawing countervailing duty petitions addressing some of the very same programs at issue here. Respondents argue that countervailing subsidies granted prior to the signing of the voluntary restraint agreement is inconsistent with the principle recognized in the Subsidies Code that only one form of relief should be permitted to remedy the effects of a particular subsidy in the domestic market of the importing country.

In addition, respondents argue that even if the Department continues to allocate benefits based upon the average useful life of assets as a reasonable measure of the duration of the benefit to a firm's overall activity, its use of a 15-year period based on 1977 depreciation tables of the Internal Revenue Service (IRS) covering renewal of physical assets (*i.e.*, equipment) does not reflect the facts of this case. Moreover, it would perpetuate a dated guideline and ignore the reality of any possible commercial and competitive benefit involved. Rather, respondents argue, the most accurate estimate of the average useful life is the most recent estimate available, *i.e.*, the 1991 Usinor Sacilor figures verified by the Department.

Petitioners disagree with respondents' proposal to use the average useful life of Usinor Sacilor's assets because it is based in the year of review only and bears no relation to the company's experience in the years in which the grants were actually received or other years in which the subsidies benefited the firm. In addition, petitioners dispute respondents' claim that the IRS tables are superseded and outdated. Petitioners contend that the IRS tables continue to provide a consistent and predictable standard for allocating grants to steelmaking operations.

DOC Position

While the Department has indicated its willingness to consider a ten-year allocation period generally (see the Preamble to the Proposed Regulations), nothing that the parties have argued leads us to conclude that we should depart from the 15-year standard for this investigation. Therefore, we have continued to use the 15-year allocation period based on the 1977 IRS depreciation table, as amended in 1985, covering renewable assets for steel.

Comment 9

Petitioners argue that based on the "transnational subsidies rule" of the Proposed Regulations the Department must not allocate GOF subsidies to any non-French activity. Moreover, petitioners maintain that because the Department's CVD order applies only to subject imports from the country under investigation, the Department must assume that no activity outside France benefits from GOF subsidies, and that subsidies are instead used by the GOF to increase economic activity in France. Therefore, all value-added outside France must be excluded from the Usinor Sacilor sales denominator.

Respondents argue that the statute requires that any duty be limited to the net subsidy determined to exist. Respondents maintain that the Department routinely allocates subsidies to sales of products not under investigation if those products benefit from the alleged subsidy, even though they are not subject to the countervailing duty order.

According to respondents, in arguing that non-French production should be excluded from the denominator, petitioners improperly invoke the transnational subsidies rule. According to respondents, on its face this rule relates solely to countervailability, *i.e.*, whether an actionable benefit exists from a GOF program, and has no relevance to measuring a subsidy in the home market. The provisions on allocating countervailable benefits to a product or market and calculating an *ad valorem* subsidy are in an entirely separate regulation.

Respondents claim that the subsidies at issue in this investigation are not tied to any particular product or products and, therefore, must be allocated over total sales. The statute, the regulations, and longstanding practice require the Department to measure the benefits from untied subsidies by determining the *proportion* of the benefit attributable to the production of the product under investigation in the country to which the countervailing duty order will apply. Therefore, respondents contend that the Department is simply not permitted to eliminate non-French sales from the denominator without a *pro rata* deduction of the benefit from the numerator. Without such a reduction, the countervailing duty will exceed the net subsidy to the subject merchandise.

DOC Position

We have not previously addressed the question whether, in calculating subsidy rates for a holding company with both domestic and foreign subsidiaries engaged in the production of products, where the subsidies are domestic subsidies and are not tied to a particular product or market, we should include in the sales denominator total world-wide sales, including sales attributable to foreign production, or only sales attributable to domestic production. In some cases, we have used total worldwide sales, as respondents point out, but we did so without addressing this question. On the other hand, in at least one case, we have excluded sales attributable to foreign production from the sales denominator. See Final Affirmative Countervailing Duty Determination: Stainless Steel Hollow Products from Sweden, 52 FR 5794 Feb. 26, 1987). In addition, the Department's Proposed Regulations do not squarely address this question. Section 355.47(c)(1) of the Proposed Regulations provides that, for "untied" domestic subsidies, we will "allocate the benefit to all products produced by a firm" and, therefore, use "a firm's total sales" in the sales denominator. From this language and the discussion of § 355.47(c)(1) in the Background section of the Proposed Regulations, there is no indication that § 355.47(c)(1) contemplated a situation where the firm was a holding company with not only domestic subsidiaries but also foreign subsidiaries engaged in the production of products.

At this time, we are not prepared to conclude automatically, as respondents seeks, that otherwise untied domestic subsidies to a holding company with both domestic and foreign subsidiaries engaged in the production of products benefits not only domestic production but also foreign production, with the result that we would include sales attributable to both domestic production and foreign production in the sales denominator. We also are not prepared to conclude, solely on the basis of petitioners' legal arguments, that the subsidies benefit only domestic production.

Rather, as our starting point, we considered whether the subsidies at issue here were tied to domestic

production, and we determined that they were. In making this determination, consistent with our existing methodology, we examined whether the subsidies were bestowed specifically to benefit domestic production. See Final Affirmative Countervailing Duty Determinations; Certain Steel Products from Belgium, 47 FR 39304 (Sept. 7, 1982) (Appendix 2). On the record before us, after reviewing the programs from which the subsidies at issue arose, and after considering the GOF's contemporaneous controlling ownership position in Usinor Sacilor, we concluded that the GOF was seeking to promote domestic social policy and domestic economic activities and therefore to encourage domestic production.

Next, we attempted to allocate, in a reasonable manner, the subsidies at issue to the products that they benefited, *i.e.*, the products as to which those subsidies provided incentives to produce and sell. Consistent with our approach to subsidies tied to a product or market, we believe that it is reasonable to allocate the benefits of the subsidies at issue, which we have determined are tied to domestic production, fully to domestic production. We also believe that it is reasonable not to allocate those benefits to foreign production. See Proposed Regulations, *supra;* Appendix 2, *supra.* See generally Industrial Nitrocellulose from France; Final Results of Countervailing Duty Administrative Review, 52 FR 833 (Jan. 9, 1987) (Industrial Nitrocellulose). Accordingly, we determined that we would allocate the benefits of the subsidies at issue fully to domestic production and that we would not allocate those benefits also to foreign production, unless we had "a clear reason to believe" that the benefits encouraged foreign production. See Industrial Nitrocellulose, *supra.*

In this case, we do not have adequate evidence to give us a clear reason to believe that the benefits of the subsidies at issue encourage foreign production. We therefore allocated the benefits fully to domestic production, and we accordingly included in the sales denominator only sales attributable to domestic production.

We note that we cannot apply respondents' alternative methodology in this case. If we were to adjust the numerator in our subsidy rate calculation, as respondents request, we would need evidence showing, for each subsidy, the amount of the subsidy benefiting the subsidiaries engaged in foreign production. The record does not contain evidence that would allow us to determine those amounts.

Therefore, to calculate the denominator, we have referenced petitioners' submission in the ongoing Countervailing Duty Investigations of Certain Carbon Steel Products from France. This calculation reasonably measures French production by excluding from Usinor Sacilor's consolidated net sales, not only sales attributable to foreign production, but also value-added outside France with respect to domestic production and transportation charges on domestic sales.

Comment 10

Petitioners argue that in the absence of documented F.O.B. port data for purposes of measuring the value of the steel shipments benefitting from the subsidies under investigation, the Department should use best information available. Petitioners contend that respondents' methodology for estimating its aggregate F.O.B. port value, starting with customer billings and then subtracting only the overseas freight costs of three of its subsidiaries, would overstate the sales denominator because other shipping expenses, *e.g.*, insurance, warehousing, brokerage and handling, etc., are not deducted, and moreover, the ocean freight for only three subsidiaries was deducted. Finally, it is overstated because value-added through processing by Usinor Sacilor's non-French subsidiaries of merchandise shipped within Europe and costs incurred in connection with domestic shipments after the product leaves the factory gate are included.

Respondents argue that they have been responsive to the Department's request for data on export and domestic sales, and that they supplied an estimate of Usinor Sacilor's F.O.B. port value. Therefore, respondents contend that the Department should reject petitioners' call for best information available. Respondents assert that Usinor Sacilor's cost of sales account contains an aggregate figure that does not itemize specific expenses, so it is impossible to identify and quantify specific transportation or other incidental expenses necessary to "back out" from a total sales figure to an ex-factory price. Respondents argue that under these circumstances, in the absence of evidence of an attempt to impede the investigation, the Department may not resort to BIA simply because the requested data is not available.

Moreover, according to respondents, petitioners' complaint that the estimates fail to take into account ocean freight costs of other subsidiaries is specious. The other subsidiaries primarily sell in Europe and do not incur any such expenses in connection with export. Also, petitioners' list of miscellaneous incidental expenses for the three export subsidiaries and the other subsidiaries that are not subtracted are *de minimis* and do not detract from the reasonableness of Usinor Sacilor's estimate. Finally, respondents argue that many of these incidental expenses are related to petitioners' flawed claim concerning value-added or incidental expenses outside of France.

DOC Position

As discussed above, we have calculated the sales denominator by referencing petitioners' submission in the ongoing Countervailing Duty Investigations of Certain Carbon Steel Products from France.

Comment 11

Petitioners agree with the Department's selection of the highest long-term annual interest rate in France as reported in the International Monetary Fund's (IMF) International Financial Statistics for the years 1982 through 1989, when the Department found Usinor, Sacilor, and Usinor Sacilor uncreditworthy. However, petitioners disagree with the Department's use of the private bond rate in determining the discount rate for the years 1978 and 1981, years in which the Department also found Usinor and Sacilor to be uncreditworthy.

Petitioners contend that the chart supplied by the GOF providing the TMO private bond rates described as "Average and highest long-term fixed interest rates" fails to reference the OECD publications from which the rates were taken, or provide information on their terms and conditions. Petitioners further contend that the Department determined at verification that INSEE calculates the TMO rates based on "medium-term and long-term issues" in France. These rates are used by banks as the basis for medium-to-long-term lending and the banks will typically "add a few percentage points to the TMO rate to determine the final lending rate." Petitioners maintain that no information was provided on how this spread is calculated, or what the spread would be for uncreditworthy companies. Therefore, petitioners argue that these rates are not the highest interest rates available in France. Petitioners argue that the Department should use, as best information available, the highest long-term interest rate as reported by the IMF in 1978 and 1981, plus a risk premium.

Respondents argue that in addition to assessing a risk premium based on the Department's uncreditworthiness

determination, the Department's use of the short-term consumer overdraft rate reported in the IMF's International Financial Statistics was in error. Respondents maintain that this rate is inappropriate in two ways. First, the use of a short-term overdraft rate was inappropriate given the Department's stated preference for using a long-term rate. Second, OECD rates are used in France not the IMF rates. Respondents also state that the Department's comments in the GOF verification report regarding the TMO–OECD rates were not accurate. According to respondents, the banking official quoted in the report actually testified that the TMO was at least a week old, if not a month old, and was used as a benchmark. The actual rate of lending would depend on the credit market's conditions on that day and on the particular borrower, and thus, the rate could be higher or lower than the average TMO for the preceding week.

DOC Position

We agree with petitioners that we used an incorrect discount rate for the years 1978 and 1981 in our preliminary determination. For purposes of this final determination, we have used the lending rate provided in the IMF's International Financial Statistics to construct the discount rate for all years in which we have found Usinor Sacilor to be uncreditworthy.

We disagree with respondents that this is a short-term rate. In most cases, it applies to loans with maturity greater than one year and, hence, is consistent with the Department's methodology because we consider loans with a maturity in excess of one-year to be long-term loans.

We note that, as discussed above in the "Long-Term Loans from FDES" section, when we have determined that Usinor Sacilor was creditworthy during a particular year, we have used for the discount rate the rate indicated in the OECD publication provided by respondents for that year.

Comment 12

Respondents argue that the Department's preliminary conclusion that Credit Lyonnais' equity investment in Usinor Sacilor was not commercially reasonable is contradicted by the record. Respondents assert that Usinor Sacilor was equityworthy in 1991 and represented an excellent investment opportunity. Respondents argue that the Credit Lyonnais' purchase of stock in Usinor Sacilor was subject to exhaustive studies by Credit Lyonnais itself and by an independent Swiss consulting firm on behalf of the EC Commission.

Petitioners dispute respondents' claim that the two studies demonstrate that the investment was commercially plausible. Petitioners assert that the EC Commission's approval of the transaction does not mean that it is not countervailable under U.S. law. The Commission's standard for determining whether a government subsidy constitutes state aid is considerably less strict than that of the U.S. law.

Petitioners also argue that Usinor Sacilor's short-term improvement in financial performance was hardly an indication of the company's permanent rehabilitation or a sustainable recovery in the steel industry. Moreover, the profit projections are not credible in light of the obvious declines in worldwide and EC demand for steel at the time of the investment. Therefore, petitioners argue that a reasonable private investor would never have proceeded with such a sizable investment under such adverse market conditions.

DOC Position: While we agree with petitioners that the EC approval of the investment is not relevant, the information provided in the studies is relevant to our analysis. Credit Lyonnais used many different criteria to evaluate Usinor Sacilor as a potential investment, some of which are discussed in a letter to the EC which is on file in this investigation. In addition, as discussed at verification, Credit Lyonnais evaluated its potential return from the investment by considering its overall return in the form of profits, dividends, additional leverage, and increased banking fees. Based on this information, Credit Lyonnais concluded that Usinor Sacilor was a commercially reasonable investment. With respect to the Swiss consulting report, based on our review of this study, we have concluded that Usinor Sacilor was capable of generating a reasonable rate of return within a reasonable period of time and, hence, was equityworthy at the time.

Verification

In accordance with section 776(b) of the Act, we verified the information used in making our final determination. We followed standard verification procedures, including meeting with government and company officials, examination of relevant accounting records, and examination of original source documents. Our verification results are outlined in detail in the public versions of the verification reports, which are on file in the Central Records Unit (Room B–099 of the Main Commerce Building).

Suspension of Liquidation

In accordance with section 705(c) of the Act, we are directing the Customs Service to continue to suspend liquidation of entries of certain additive steel products from France which are entered or withdrawn from warehouse for consumption on or after the date of publication of this notice in the Federal Register, and to require a cash deposit or bond of estimated countervailing duties at the following rate:

	Ad valorem rate (percent)
Usinor Sacilor	23.14
Country-Wide Rate	23.14

ITC Notification

In accordance with section 705(d) of the Act we will notify the ITC of our determination. In addition, we are making available to the ITC all nonprivileged and nonproprietary information relating to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Deputy Assistant Secretary for Investigations, Import Administration.

If the ITC determines that material injury, or the threat of material injury, does not exist, these proceedings will be terminated and all estimated duties deposited or securities posted as a result of the suspension of liquidation will be refunded or cancelled. If, however, the ITC determines that such injury does exist, we will issue a countervailing duty order, directing Customs officers to assess countervailing duties on entries of certain additive steel products from France.

Return or Destruction of Proprietary Information

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 355.34(d). Failure to comply is a violation of the APO.

This determination is published pursuant to section 705(d) of the Act (19 U.S.C. 1671d(d)) and 19 CFR 355.20(a)(4).

Dated: January 19, 1993.

Alan M. Dunn,

Assistant Secretary for Import Administration.

[FR Doc. 93–2002 Filed 1–26–93; 8:45 am]

BILLING CODE 3510–DS–M

[C–428–812]

Final Affirmative Countervailing Duty Determination: Certain Hot Rolled Lead and Bismuth Carbon Steel Products From Germany

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: January 27, 1993.

FOR FURTHER INFORMATION CONTACT: Rick Herring or Magd Zalok, Office of Countervailing Investigations, Import Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 482–3530 or 482–4162, respectively.

Final Determination

The Department of Commerce (the Department) determines that benefits which constitute subsidies within the meaning of the countervailing duty (CVD) law are being provided to manufacturers, producers, or exporters in Germany of certain hot rolled lead and bismuth carbon steel products (hereinafter: "certain additive steel products").

For information on the estimated net subsidy, please see the "Suspension of Liquidation" section of this notice.

Case History

Since the publication of the preliminary determination (57 FR 42971, September 17, 1992), the following events have occurred.

We verified the information used in making this final determination from October 12 through October 22, 1992.

On October 16, 1992, in accordance with section 705(a)(1) of the Tariff Act of 1930, as amended (the Act), we aligned the final determination in this investigation with the final determination in the companion antidumping duty (AD) investigation of the same merchandise (57 FR 48020, October 21, 1992). On November 6, 1992, at the request of the respondents, we postponed the final CVD and AD determinations until January 11, 1993 (57 FR 53691, November 12, 1992). On January 11, 1993, we postponed for a second time the final CVD and AD determinations until January 19, 1993 (Not Yet Published).

The parties submitted case and rebuttal briefs on November 25, and December 2, 1992, respectively. A public hearing was held on December 4, 1992. Supplemental post-hearing briefs were filed on December 10, 1992.

Scope of Investigation

The products covered by this investigation are hot-rolled bars and rods of nonalloy or other alloy steel, whether or not descaled, containing by weight 0.03 percent or more of lead or 0.05 percent or more of bismuth, in coils or cut lengths, and in numerous shapes and sizes. Excluded from the scope of this investigation are other alloy steels (as defined by the Harmonized Tariff Schedule of the United States (HTSUS) Chapter 72, note 1 (f)), except steels classified as other alloy steels by reasons of containing by weight 0.4 percent or more of lead, or 0.1 percent or more of bismuth, tellurium, or selenium. Also excluded are semi-finished steels and flat-rolled products. Most of the products covered in this investigation are provided for under subheadings 7213.20.00.00 and 7214.30.00.00 of the HTSUS. Small quantities of these products may also enter the United States under the following HTSUS subheadings: 7213.31.30.00, 60.00; 7213.39.00.30, 00.60, 00.90; 7214.40.00.10, 00.30, 00.50; 7214.50.00.10, 00.30, 00.50; 7214.60.00.10, 00.30, 00.50; and 7228.30.80.00. Although the HTSUS subheadings are provided for convenience and customs purposes, our description of the scope of this proceeding is dispositive.

Analysis of Programs

For purposes of this final determination, the period for which we are measuring subsidies (the period of investigation (POI)) is calendar year 1991.

Pursuant to 19 CFR 355.20(d), we compared the total *ad valorem* subsidy received by each firm to the country-wide rate for all programs. On the basis of this comparison, the rate for Thyssen AG was significantly different from the country-wide rate. Therefore, this firm received an individual company rate. The calculated rate for Saarstahl AG will be used for all other manufacturers, producers, and exporters of certain additive steel products in Germany.

Based upon our analysis of the petition, responses to our questionnaires, verification, and written comments from the interested parties, we determine the following:

Grant Methodology

Our policy with respect to grants is (1) to expense recurring grants in the year of receipt, and (2) to allocate non-recurring grants over the average useful life of assets in the industry, unless the sum of grants provided under a particular program is less than 0.5 percent of a firm's total or export sales (depending on whether the program is a domestic or export subsidy) in the year in which the grant was received. See *e.g.*, Final Affirmative Countervailing Duty Determination; Fresh and Chilled Atlantic Salmon from Norway, (Salmon from Norway), 56 FR 7678 (February 25, 1991). We have considered the grants provided under the programs described below to be non-recurring, unless otherwise noted, because the benefits are exceptional, the recipient cannot expect to receive benefits on an ongoing basis from review period to review period, and/or the provision of funds by the government must be approved every year. See, Final Affirmative Countervailing Duty Determination; Certain Fresh Atlantic Groundfish from Canada (Groundfish from Canada), 51 FR 10041 (March 24, 1986). Therefore, we have allocated the benefits over 15 years, which the Department considers to be reflective of the average useful life of assets in the steel industry (see, § 355.49(b)(3) of the Department's proposed regulations (Countervailing Duties; Notice of Proposed Rulemaking and Request for Public Comments, 54 FR 23366 (May 31, 1989) (Proposed Regulations)).

The benefit from each of the grant programs discussed below was calculated using the declining balance methodology described in the Department's Proposed Regulations (see, section 355.49(b)(3)) and used in prior investigations (see, *e.g.*, Salmon from Norway). For the discount rate in these calculations, we used, whenever possible, each company's actual cost for long-term, fixed-rate debt. If a company did not report this cost, or when a company had no long-term borrowing in the year in which the grant was approved, we used the national average long-term interest rate.

I. Programs Determined To Confer Subsidies

We determine that subsidies are being provided to manufacturers, producers, or exporters in Germany of certain additive steel products as follows:

1. Government Debt Forgiveness in 1989

In the years 1971 through 1989, the companies which were eventually to become Saarstahl AG, went through various mergers, restructurings, and name changes. For the sake of simplicity, we are using the name "Saarstahl" when referring to assistance

provided to Saarstahl AG or to assistance provided to any of its predecessor companies.

In response to the poor economic condition of the steel industry in the Saarland in the 1970's, the Governments of Germany and Saarland, and the steel companies which were to become Saarstahl, adopted their first restructuring plan in an attempt to create a viable steel industry in Saarland. In order to facilitate the implementation of the restructuring plan, the Federal Government authorized the provision of DM 244 million in funds to Saarstahl in 1978. Repayment of these funds was contingent upon Saarstahl returning to profitability. This contingent repayment obligation was called a Rueckzahlungsverpflichtung (RZV).

In addition, the Governments of Germany and Saarland guaranteed loans in the amount of DM 1.18 billion made to Saarstahl by a group of private banks. Due to the company's poor financial condition, the banks would not have made the loans to Saarstahl without the government guarantees. These loans were also used to finance the restructuring plan. Saarstahl made payments on the guaranteed loans until April 1983. At that time, the Governments of Germany and Saarland assumed the payment of interest and principal. Again, these government payments of principal and interest were to be repaid by Saarstahl under RZVs.

The initial provision of DM 244 million by the Government of Germany and the payments of interest and principal by the two governments were the first in a long line of assistance provided by both governments to Saarstahl. Assistance provided to the company from 1981 through 1985 was used to modernize the company, make capital investments, cover operating expenses, and cover employee expenses pursuant to a number of Saarstahl restructuring plans. In addition, the government payments of the interest and principal of the guaranteed loans continued until 1989. All of this assistance was tied to RZVs which obligated Saarstahl to repay the assistance provided the company earned a profit in the future. By 1989, Saarstahl had accumulated DM 3.948 billion in repayment obligations to both governments.

During the period when most of the government assistance was being provided to Saarstahl, the company was wholly-owned by a Luxembourg company, Arbed Luxembourg (Arbed). By 1985, Arbed was no longer able or willing to function as the owner of Saarstahl. Because of the importance of Saarstahl to the economy of Saarland, the Government of Saarland decided to look for a new owner to replace Arbed. Another steel company in Saarland, the French-owned AG der Dillinger Huttenwerke (Dillinger), expressed interest in Saarstahl. At that time, Dillinger and Saarstahl were already joint venture partners in a company which produced pig iron.

In order to facilitate finding a new investor for Saarstahl, Arbed transferred 76 percent of the ownership of Saarstahl to the Governments of Germany and Saarland for one deutsche mark in 1986. A trustee was appointed to hold the shares for both governments while a new investor was sought. The Federal Government was not interested in keeping any shares in Saarstahl. At the same time, an agreement was signed under which Dillinger would manage Saarstahl in order to diagnose the company's problems and, thereafter, delineate Usinor Sacilor's, Dillinger's parent company, conditions for a potential merger. In April 1989, an agreement was reached between the Government of Saarland and Usinor Sacilor regarding the merger of Saarstahl and Dillinger.

Based on the terms of this merger agreement, Saarstahl and Dillinger became subsidiaries of a newly-created holding company, DHS-Dillinger Huette Saarstahl AG (DHS). The Government of Saarland contributed the assets of Saarstahl and DM 145.1 million in cash in return for 27.5 percent ownership of Saarstahl's new parent company, DHS. Usinor Sacilor conditioned this agreement upon the Federal and Saarland governments' forgiveness of all of Saarstahl's RZVs.

Pursuant to the merger agreement, the Governments of Germany and Saarland, and Saarstahl entered into an agreement concerning the previous assistance received by Saarstahl. Under the latter agreement, the Entschuldungsvertrag (the EV), all outstanding RZV repayment obligations for all the funds provided to Saarstahl by the Governments of Germany and Saarstahl, as well as additional rights held by both governments for repayment of principal on the guaranteed loans, were forgiven and relinquished. The EV was signed in June 1989.

Because the debt forgiveness under the EV was only provided to one company, we determine it to be countervailable because it was limited to a specific enterprise or industry or group of enterprises or industries.

To determine the benefit arising from the debt forgiveness, we are treating the amount of the forgiveness, DM 3.948 billion, as a nonrecurring grant and calculating the benefit according to the methodology described in the "Grant Methodology" section above. At verification, Ministry of Economics officials stated that there are no official statistics on long-term interest rates published by the federal government. Therefore, we reviewed the interest rates published in the International Monetary Fund's International Financial Statistics and used the average annual long-term interest rate reported in that publication for 1989, which was 9.94 percent, as our discount rate.

The portion of the benefit allocated to the period of investigation was adjusted pursuant to section 771(6) of the Act. Under this section of the Act, the Department may subtract any application fee, deposit, or similar payment from the benefit if that payment was made in order to qualify for, or to receive, benefits under the program. According to the EV agreement, Saarstahl is required to pay a yearly fee of DM 300,000 to the Government of Germany. Therefore, we deducted DM 300,000 from the portion of the benefit attributable to the period of investigation and divided the resultant sum by DHS's total sales (which includes the total sales of both Saarstahl and Dillinger). We used the sales of DHS because the forgiveness of Saarstahl's debt resulted in a benefit to DHS. On this basis, we calculated an estimated net of 16.02 percent *ad valorem*. The estimated net subsidy for Thyssen under this program is 0.00 percent *ad valorem*.

2. Debt Forgiveness by Private Banks

Commercial banks also participated in the restructuring of Saarstahl during the period from 1978 through the final restructuring of the company in 1989. During part of this time period they provided both short- and long-term loans to Saarstahl which were not guaranteed by the Governments of Germany or Saarland. In the years 1983 through 1985, the banks forgave Saarstahl DM 106.8 million in interest on these loans. This forgiveness was in response to the company's poor financial condition and was not made at the request of, or related to any assistance provided by, the Governments of Germany and Saarland.

Toward the end of 1985, the Government of Saarland presented a long-term restructuring plan for Saarstahl to Saarstahl's creditors and requested that they forgive an additional amount of DM 350 million in loans. Based on this request, the banks agreed to forgive DM 217.33 million of debt owed to them by Saarstahl, if the Governments of Germany and Saarland

would forgive all debt owed to them by Saarstahl and if the Government of Saarland would assure the future liquidity of Saarstahl. With the signing of the EV, the governments forgave Saarstahl's debt owed to them, as discussed above, and the commercial banks forgave a portion their unguaranteed loans to Saarstahl.

The talks on the forgiveness of Saarstahl's debt were based on the common notion that all of the participants, including the private and public creditors, would have to contribute to the restructuring of Saarstahl if this restructuring was to be successful. The Governments of Germany and Saarland made their forgiveness dependent on private creditors also forgiving a portion of their claims against Saarstahl. The private creditors laid down the same condition with regard to the claims of the Governments of Germany and Saarland.

We determine the forgiveness of interest payments in the years 1983 through 1985 did not confer a countervailable subsidy on Saarstahl because the banks were acting independently, without any direction or participation by the Governments of Germany and Saarland. However, we determine that the subsequent forgiveness of principal was countervailable because it was required by the governments as part of a government-led debt reduction package for Saarstahl and because the two governments guaranteed the future liquidity of Saarstahl, thereby, implicitly assuring the private banks that the remaining portion of Saarstahl's outstanding loans would be repaid.

At verification, we established that the loans were forgiven by private banks in 1989, the same year the EV was signed, and in 1987. One private bank forgave DM 541,000 in debts in 1987. The remaining portion of the debt. DM 216.819 million was forgiven in 1989.

Using the same methodology used to calculate the subsidy for the government forgiveness of Saarstahl's debt in 1989, we calculated an estimated net subsidy of 0.88 percent *ad valorem* for the 1989 debt forgiveness of DM 216.819 million. The debt forgiveness which occurred in 1987 was expensed in the year of receipt because the amount forgiven was less than 0.5 percent of total sales. The estimated net subsidy for Thyssen under this program is 0.00 percent *ad valorem*.

3. Worker Assistance Program

Under Article 56 of the European Coal and Steel Community (ECSC) Treaty, persons employed in the coal and steel industry who lose their jobs may receive assistance for "social adjustment." This assistance is provided for workers affected by restructuring measures, particularly as workers withdraw from the labor market into early retirement or are forced into unemployment. The ECSC disburses assistance on the condition that the affected country makes an equivalent contribution.

German companies seeking assistance under Article 56 of the ECSC Treaty must apply to both the Federal Minister of Labor and Social Affairs and to the Federal Minister of Economics. Notification of approval is provided by the Federal Minister of Labor and Social Affairs which is also in charge of distributing such funds on its own account and on behalf of the ECSC.

During the period of investigation, Saarstahl and Thyssen received payments for their workers under Article 56(2)(b) of the ECSC Treaty. The payments were made to provide for prematurely retired employees. In Germany, a company's obligations with respect to prematurely retired employees are delineated in the social plans these companies have with their employees. We verified that anticipated Article 56 payments were taken into account during the negotiations of Saarstahl's and Thyssen's social plans.

At verification, we also established that the ECSC share of the payments is provided from its budget, which is financed through levies and fines from coal and steel producers and the interest earned on the investment of these proceeds. Deficits in the budget are made up by Member State contributions. However, no contributions have been made by the Member States since 1984. Since the ECSC payments in 1991 were financed solely from producer contributions, they do not confer a countervailable benefit.

With respect to the German contributions under this program, however, we determine that the funds are limited to a specific industry or group of industries and, because the funds relieve the companies of obligations they normally would have incurred, that they confer a countervailable subsidy. We further determine that the assistance provided under this program is recurring since the recipients can expect to receive benefits on an ongoing basis. Therefore, we limited our analysis to funds received during the period of investigation, 1991.

To calculate the benefit, we took half of the funds received by the companies under this program in 1991, which is that portion attributable to the Government of Germany, and divided it by each company's total sales during the period of investigation. Using this methodoloy, we calculated, for Saarstahl, an estimated net subsidy of 0.38 percent *ad valorem*. The estimated net subsidy for Thyssen was 0.16 percent *ad valorem* under this program.

II. Program Determined Not To Be Countervailable

1. The Government of Saarland's Equity Investment in DHS

We determined that the Saarland's capital contribution of DM 145.1 million described in the "Government Debt Forgiveness in 1989" above to be consistent with commercial considerations. At the same time that the Saarland government was investing these funds, two private investors were also investing in DHS. Using these private investors as a benchmark, we find that the Government of Saarland made its investment on the same terms. Therefore, we determine that the Government of Saarland's equity contribution of DM 145.1 million does not confer a countervailable benefit. For additional information regarding this issue, please see Comment 4, below.

Comments

All written comments submitted by the interested parties in this investigation which have not been previously addressed in this notice are addressed below.

Comment 1

Respondent maintains that the private banks' forgiveness of Saarstahl's debts was a rational commercial decision because, if Saarstahl had filed for bankruptcy, the banks would have lost more money than the forgiven portion of the debt. Respondent further asserts that private banks were not, in any way, coerced by the federal or Saarland governments to forgiven the debt.

Petitioners, on the other hand, argue that private creditors released Saarstahl from its debts as part of a package deal in which the governments agreed that they would continue to assume payments on the guaranteed debt. Without government intervention, the private banks' forgiveness would not have occurred. Therefore, petitioners maintain that the private banks forgiveness in countervailable, especially since Saarstahl failed to produce documents during verification that, Saarstahl claimed, would have proved otherwise.

DOC Position

The private debt forgiveness was part of a debt reduction package negotiated by the Governments of Germany and Saarland. The governments made the initial approach to private creditors

requesting that they forgive Saarstahl's debt. In exchange for the private debt forgiveness, the governments agreed to forgive all of the debt due to them by the company. In addition, the Government of Saarland assured the private banks of Saarstahl's liquidity. Given the governments' extensive role in bringing about the private banks' debt forgiveness and the absence of any documentation to support respondent's claim that the banks' actions were commercially sound, we find the forgiveness to be countervailable.

We also note that we requested additional documents relating to the debt forgiveness which were referred to in Saarstahl's response. These documents were not provided to the Department by the company.

Comment 2

Petitioners argue that the Department should treat the portion of Article 56 assistance provided by the ECSC like any national subsidization of employee severance costs, since there is no difference between producer contributions set by the EC and other taxes collected by governments through other funding mechanisms. Petitioners further maintain that if the Department decides that the benefits funded by the ECSC are *per se* non-countervailable, then this should only apply to what Saarstahl paid in levies in that year. In other words, the Department should countervail the money received by the companies in excess of what the companies paid in levies to the EC during the period of investigation.

DOC Position

We disagree with petitioners. Premiums paid to the ECSC are not similar to taxes paid to a national or state government. These premiums are more analogous to premiums paid for insurance or to dues paid by members of an association or union which are used to support the activities of the organization. Premiums paid by steel producers to the ECSC are used for a variety of activities to support ECSC members, including the funding of research and development and the provision of assistance to laid-off steel workers.

Government-administered unemployment programs funded solely through employee and employer contributions are not countervailable. Such programs, like the workers assistance program under Article 56(2)(b) of the ECSC Treaty, operate like an insurance program. The fact that a company or individual may receive more in any given year than the amount it paid into the program is not a basis for concluding that the program provides a countervailable benefit. Such an occurrence is natural with any insurance program. As long as the program operates without government funds, there is no countervailable benefit.

Comment 3

Petitioners maintain that Saarstahl failed to provide translated versions of its social plans, passed after the Stahlstiftung was created, which could have revealed whether the company was obligated to provide assistance for retraining its former employees. Therefore, the Department should determine, as best information available, that Saarstahl's social plan requires the company to provide assistance for retraining purposes. Moreover, petitioners argue that the Department should countervail the government's funding of the Stahlstiftung, since it is specific to Saarstahl and it relieves the company of its financial obligations.

DOC Position

Although we are not assuming any obligation to translate documents, our review of Saarstahl's social plans, both the translated and the untranslated versions, shows that the company is not required to provide assistance to its former (or present) employees for retraining purposes. Therefore, we view the assistance provided by the Stahlstiftung, for retraining former Saarstahl's employees, as distinct from Saarstahl's assistance as delineated in its social plans. Since Saarstahl, according to German law, is only obligated to provide assistance pursuant to the terms delineated in its Social Plan, the Stahlstiftung did not relieve the company of any obligations. Therefore, no countervailable benefit was provided to Saarstahl from the government's funding of the Stahlstiftung.

Comment 4

Petitioners maintain that the financial performance of Saarstahl and Dillinger shows that neither company, nor the two combined, were equityworthy in 1989. Consequently, petitioners argue that the Department should consider the Saarland government's DM 145 million equity infusion into DHS as inconsistent with commercial considerations.

Respondent asserts that the Land's payment of DM 145 million cannot be construed as a subsidy because it represented a fair price for its investment in DHS that was valued by an independent accounting firm (KPMG).

DOC Position

We believe that the equity infusion made by the Government of Saarland into DHS was on terms consistent with commercial considerations. Because there were other investors besides the Government of Saarland, the terms of the other investors, rather than the financial performance of the recipient company, determine whether the government investment was made on terms consistent with commercial considerations. Moreover, the fact that there were private parties willing to invest in DHS supports the conclusion that the company is equityworthy. Therefore, because the two other investors, ARBED and Usinor Sacilor, made equity infusions at the same time and on the same terms as the Government of Saarland, we determine that the equity infusion made by the Government of Saarland into DHS was made on terms consistent with commercial considerations. This analysis is consistent with Department practice when there are other parties making equity investments at the same time as the government. (See, *e.g.*, Groundfish from Canada and Offshore Platform Jackets and Piles from the Republic of Korea, 51 FR 11779, April 7, 1986.)

Comment 5

Respondent contends that Saarstahl Voelkingen GmbH (SVK) was privatized in 1989 by the Government of Saarstahl in an arm's length transaction which involved a change of majority ownership and control to a major unaffiliated corporation. Therefore, respondent argues that the Department should not consider any benefits bestowed upon Saarstahl's predecessor company to pass through to the new entity, DHS.

Petitioners maintain that the 1989 reorganization of Saarstahl merely shifted the existing public and private interests in Saarstahl and did not privatize the company. This is because the government's partial sale of its interest in Saarstahl in 1989 was negotiated with only one bidder (Usinor Sacilor), a situation where market discipline was not applied, and because the government continued to maintain ownership and control over DHS. Consequently, the change in Saarstahl's ownership does not affect pass-through of benefits.

DOC Position

Because the debt forgiveness was part of the deal negotiated to effect the merger, we consider the forgiveness to benefit the newly-formed company, not

the predecessor to DHS. Therefore, pass through of subsidies received by the predecessor company is not at issue here.

Comment 6

Respondent contends that the Department should characterize the loans guaranteed by federal and Land governments as grants provided to Saarstahl in 1978 in the amount of the loans. This is because both governments guaranteed these loans to a financially-troubled company, with the knowledge that Saarstahl could never repay the bank creditors, and that they ultimately would have to repay the entire principal and interest on the loan. Therefore, respondent argues that the Department should allocate the guaranteed loan amount, as a grant, over time commencing in 1978.

Furthermore, respondent maintains that the funds provided pursuant to administrative orders and government contracts were recurring benefits during the period 1978–1985. Due to limitations imposed on assistance to the European steel companies, under the European Communities State Aids Code, these funds were terminated in 1985. Therefore, respondent argues that the Department should expense rather than allocate these benefits.

DOC Position

There is no evidence on the record to suggest that the Governments of Germany and Saarland provided the loan guarantees to Saarstahl with the knowledge that the company would be unable to repay its bank creditors. Indeed, at the time the loan guarantees were given, Saarstahl received loans from private banks without guarantees from either government. Payments made on the guaranteed loans as well as other subsidies provided to Saarstahl were all subject to repayment obligations (RZVs) upon the company's realization of profit in the future. Prior to the debt forgiveness in 1989, if Saarstahl had been able to realize profits the company would have been obligated to resume its payments to its creditor banks, and, according to the company's contractual agreement with the two governments, would also have been obligated to repay all of its RZVs.

Similarly, with respect to funds provided pursuant to administrative orders and government contracts, these funds were not grants because they were tied to repayment obligations. Therefore, we have treated them as loans which were forgiven in 1989.

Comment 7

Petitioners and Saarstahl argue that we should allocate the benefit from the debt forgiveness only over Saarstahl's sales, and not the sales of DHS. Petitioners argue that the benefits from the forgiveness are tied only to Saarstahl's products.

DOC Position

Although the original debt was incurred by Saarstahl, the forgiveness of the debt was tied specifically to the creation of DHS. Without the forgiveness of the debt, there would have been no DHS. Therefore, we believe that since the debt forgiveness was a condition for the creation of DHS, the benefit from the forgiveness is properly allocated to DHS's sales.

Verification

In accordance with section 776(b) of the Act, we verified the information used in making our final determination. We followed standard verification procedures, including meeting with government and company officials, examination of relevant accounting records, and examination of original source documents. Our verification results are outlined in detail in the public versions of the verification reports, which are on file in the Central Records Unit (Room B–099 of the Main Commerce Building).

Suspension of Liquidation

In accordance with section 705(c) of the Act, we are directing the Customs Service to continue to suspend liquidation of entries of certain additive steel products from Germany, which are entered or withdrawn from warehouse for consumption on or after the date of publication of this notice in the **Federal Register**, and to require a cash deposit or bond of estimated countervailing duties equal to the following rate:

Company	Ad valorem rate
Country-wide rate	17.28 percent.

Because the estimated net subsidy for Thyssen is 0.16 percent *ad valorem*, which is *de minimis*, Thyssen is exempt from the suspension of liquidation.

ITC Notification

In accordance with section 705(d) of the Act we will notify the ITC of our determination. In addition, we are making available to the ITC all nonprivileged and nonproprietary information relating to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Deputy Assistant Secretary for Investigations, Import Administration.

If the ITC determines that material injury, or the threat of material injury, does not exist, these proceedings will be terminated and all estimated duties deposited or securities posted as a result of the suspension of liquidation will be refunded or cancelled. If, however, the ITC determines that such injury does exist, we will issue a countervailing duty order, directing Customs officers to access countervailing duties on entries of certain additive steel products from Germany entered, or withdrawn from warehouse, for consumption, as described in the "Suspension of Liquidation" section of this notice.

Return or Destruction of Proprietary Information

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 355.34(d). Failure to comply is a violation of the APO.

This determination is published pursuant to section 705(d) of the Act (19 U.S.C. 1671d(d)) and 19 CFR 355.20(a)(4).

Dated: January 19, 1993.

Alan M. Dunn,

Assistant Secretary for Import Administration.

[FR Doc. 93–2003 Filed 1–26–93; 8:45 am]

BILLING CODE 3510–DS–M

[C–412–811]

Final Affirmative Countervailing Duty Determination: Certain Hot Rolled Lead and Bismuth Carbon Steel Products From the United Kingdom

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: January 27, 1993.

FOR FURTHER INFORMATION CONTACT: Stephanie L. Hager or Annika L. O'Hara, Office of Countervailing Investigations, Import Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone (202) 482–5055 or 482–0588, respectively.

Final Determination

The Department of Commerce (the Department) determines that benefits which constitute subsidies within the meaning of the countervailing duty (CVD) law are being provided to manufacturers, producers, or exporters in the United Kingdom of certain hot rolled lead and bismuth carbon steel products (hereinafter: "certain additive steel products").

For information on the estimated net subsidy, please see the "Suspension of Liquidation" section of this notice.

Case History

Since the publication of the preliminary determination (57 FR 42974, September 17, 1992), the following events have occurred.

We verified the information used in making our preliminary determination from September 28 through October 9, 1992.

On October 16, 1992, in accordance with section 705(a)(1) of the Tariff Act of 1930, as amended (the Act), we aligned the final determination in this investigation with the final determination in the companion antidumping duty (AD) investigation of the same merchandise (57 FR 48020, October 21, 1992). On November 6, 1992, at the request of respondents, we postponed the final CVD and AD determinations until January 11, 1993 (57 FR 53691, November 12, 1992).

The parties submitted case and rebuttal briefs on November 18 and 24, 1992, respectively. A public hearing was held on December 2, 1992. Supplemental briefs were filed on December 7, 1992.

On January 11, 1993, we postponed for a second time the final CVD and AD determinations until January 19, 1993 (Not Yet Published).

Scope of Investigation

The products covered by this investigation are hot rolled bars and rods of non-alloy or other alloy steel, whether or not descaled, containing by weight 0.03 percent or more of lead or 0.05 percent or more of bismuth, in coils or cut lengths, and in numerous shapes and sizes. Excluded from the scope of this investigation are other alloy steels (as defined by the Harmonized Tariff Schedule of the United States (HTSUS) Chapter 72, note 1 (f)), except steels classified as other alloy steels by reason of containing by weight 0.4 percent or more of lead or 0.1 percent or more of bismuth, tellurium, or selenium. Also excluded are semi-finished steels and flat-rolled products.

Most of the products covered in this investigation are provided for under subheadings 7213.20.00.00 and 7214.30.00.00 of the HTSUS. Small quantities of the subject merchandise may also enter the United States under the following HTSUS subheadings: 7213.31.30.00, 60.00; 7213.39.00.30, 00.60, 00.90; 7214.40.00.10, 00.30, 00.50; 7214.50.00.10, 00.30, 00.50; 7214,60.00.10, 00.30, 00.50; and 7228.30.80.00. Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of this investigation is dispositive.

Analysis of Programs

For purposes of this final determination, the period for which we are measuring subsidies (the period of investigation (POI)) is calendar year 1991, which corresponds to the fiscal years of the UK producers of the subject merchandise, United Engineering Steels Limited (UES), Allied Steel and Wire Limited (ASW), and Glynwed International plc (Glynwed).

Purusant to 19 CFR 355.20(d), we compared the total *ad valorem* subsidy received by each firm to the country-wide rate for all programs. On the basis of this comparison, the rates for ASW and Glynwed were significantly different from the country-wide rate. Therefore, these firms received individual company rates. The calculated rate for UES will be used for all other manufacturers, producers, and exporters of certain additive steel products in the United Kingdom.

As a result of the ongoing Countervailing Duty Investigation of Certain Steel Products from the United Kingdom (Certain Steel), we have been made aware of certain programs, not originally investigated in this case, which appear to provide subsidies, *e.g.*, European Investment Bank loans. Nevertheless, we did not have sufficient time to obtain and verify information with respect to these programs. Accordingly, we will address them during the first administrative review of the CVD order in this case, as is contemplated by section 355.39 of the Department's Proposed Regulations (Countervailing Duties; Notice of Proposed Rulemaking and Request for Public Comments (Proposed Regulations), 54 FR 23366 (May 31, 1989)), assuming a CVD order is issued an administrative review is requested.

Based upon our analysis of the petition, responses to our questionnaires, verification, and written comments from the interested parties, we determine the following:

I. Pass-Through of Benefits From BSC to UES

1. Background

UES is a joint venture company which was formed in 1986 by the government-owned British Steel Corporation (BSC) and a privately owned company, Guest, Keen & Nettlefolds (GKN). Both BSC and GKN contributed "productive units" (*e.g.*, steel works, re-rolling mills), accounts receivable, cash, and inventories to the joint venture in return for shares in UES. More specifically, BSC contributed a major portion of its Special Steels Business which produced engineering steels, while GKN contributed its Brymbo Steel Works (Brymbo) and its forgings business. At the time of the formation of UES, BSC was wholly owned by the UK government. However, in 1988, BSC was privatized and now bears the name British Steel plc (BS plc).

For purposes of our preliminary determination, in order to determine whether UES received a countervailable benefit during the POI, the Department examined the transaction forming the UES joint venture to ascertain whether the terms obtained by BSC were consistent with commercial considerations. In that determination, we found that UES was subsidized to the extent that BSC paid a premium for its shares in UES.

The Department has received numerous comments on the issue of whether subsidies provided to BSC prior to the formation of UES were passed through the UES. These comments are summarized as follows.

2. Petitioners' Position

Petitioners argue that, under the circumstances of this investigation, section 701(a) of the Act requires that the entire net subsidy provided to the recipient be countervailed. Petitioners note that the Court of International Trade (CIT) has found BSC to be the recipient of countervailable subsidies. *British Steel Corp.* v. *United States*, 605 F. Supp. 286, 289, 294–295 (CIT 1985). Petitioners claim that, whatever part of the benefit stream flowing from the net subsidy remains, there is no provision in the law which allows this benefit stream to be terminated and as a result of mere changes in corporate form and ownership.

Indeed, petitioners state that countervailable benefits "survive" most types of corporate restructuring because subsidies are fungible, *i.e.*, they are normally attributed to all operations of the recipient company because they benefit, directly or indirectly, all operations of the company. Thus, the

conveyance of a major portion of the Special Steels Business to UES, which petitioners characterize as a restructuring of BSC, did not affect the countervailability of the benefits bestowed on BSC. A *pro rata* share of BSC's benefits is, therefore, allocable to the production of the Special Steels Business.

Citing *Armco, Inc.* v. *United States*, 733 F. Supp. 1514, 1523 (CIT 1990), petitioners argue that it is the Department's obligation to countervail subsidies granted *directly or indirectly* to companies. Petitioners emphasize that the Special Steels Business was conveyed to UES as a complete operating business in a related party transaction. In support of their position, petitioners state that the "purchaser" of the Special Steels Business, UES, is not independent of BSC, because BSC owns half of the voting stock and over 60 percent of the total stock in UES, and contributed the vast majority of its assets. Essentially everything the Special Steels Business had as a part of BSC, including the benefit of its allocable share of BSC's subsidies, it continued to have after the transfer.

Petitioners claim that the Department's finding in Certain Steel Products from Sweden; Final Results of Countervailing Duty Administrative Review, (Swedish Steel), 56 FR 47185 (September 18, 1991) is relevant to the situation in the current investigation. In Swedish Steel, the Department determined that a corresponding decrease in the countervailable benefit did not occur with the sale of one-third of a company's stock to a private party. In Swedish Steel, as in the instant case, it was merely the ownership that was conveyed. Petitioners contend that it has long been held by the Department that a purchase of stock from the public, at whatever price, is not a subsidy because the proceeds go to the purchaser, not to the company. Final Affirmative Countervailing Duty Determinations; Certain Steel Products from Spain, 47 FR 51438 (November 15, 1982) and Cold-Rolled Carbon Steel Flat-Rolled Products from Argentina: Final Affirmative Countervailing Duty Determination and Countervailing Duty Order, (Subsidies Appendix), 49 FR 18006 (April 26, 1984). Conversely, according to petitioners, the privatization of a company through the sale of its stock does not extinguish subsidies because the transfer of wealth is from the new owners to the government. Thus, the creation of UES in 1986, as well as the privatization of BSC in 1988, had no effect on the countervailability of any subsidies provided to BSC.

Petitioners argue that Congress and the courts have carefully circumscribed the Department's authority to countervail less than the net amount of the subsidy by setting out a short list of narrowly defined offsets. Petitioners state that none of these offsets relates to the sale of a subsidized company. Section 771(6) of the Act. S. Rep. No. 249 at 86, 1979 U.S.C.C.A.N. at 472, *Hercules, Inc.* v. *United States*, 673 F. Supp 454 (CIT 1987). Petitioners argue that under the circumstances of the current investigation, the Department has no authority to adjust or modify the net subsidy that has already been established, except to the extent of statutory offsets.

Petitioners note that two years after the formation of UES, BSC was privatized. Petitioners emphasize that both before and after BSC's privatization, BSC owned 60 percent of UES and had the ability to control the joint venture. Petitioners claim that the sale of BSC stock did not affect the previous conveyance of BSC's Special Steels Business to UES and that none of the prior subsidies provided to BSC were purged as a result of its privatization. According to petitioners, this is because (1) the financial position of BSC remained unchanged after the privatization, (2) the CVD law is concerned with determining whether the subject merchandise, not the owner of the company, benefits from a subsidy, and (3) subsidies distort the economy because they provide resources that would have gone to different uses if they had not been employed to create steel-producing assets to the detriment of the U.S. steel industry.

According to petitioners, respondents' argument concerning upstream subsidies totally misinterprets the meaning of the statute. Petitioners argue that it is obvious that the upstream subsidy provisions were meant to deal with "input products * * * used in the manufacture of the products under investigation," and that a business is not an input product. Section 771A(a) of the Act.

3. Respondents' Position

According to respondents, when the ownership and control of an asset is transferred from a state-owned enterprise to a private company in an arm's length transaction or otherwise at market value, merchandise produced with that asset by the new owner does not derive a benefit from any past subsidies that the state-owned enterprise may have received. Respondents contend that any prior subsidies to BSC should continue to be apportioned over the production of the company that received and supposedly benefitted from those subsidies, *i.e.*, BSC. Respondents argue that the assets transferred to UES, like assets that might be sold to totally unrelated third parties, did not "receive" the subsidies—BSC did.

Furthermore, respondents state that there is no necessary or logical connection between the Department's methodology of apportioning the subsidy received by a firm over all of the products produced by the firm and petitioners' contention that every asset of a subsidized firm bears a subsidy taint that stays with the asset no matter who subsequently acquires it. The Department imposed countervailing duties in the prior BSC cases because of the benefits received by BSC as a company, not because of the benefits received by individual assets.

According to respondents, under Department and judicial precedent, the attribution of subsidies to a company that did not receive the subsidies would only be appropriate where the company that received the subsidies either controlled or was controlled by the first company. *Armco Inc.* v. *United States*, 733 F. Supp. 1514, 1521 (CIT 1990) and Final Affirmative Countervailing Duty Determination: Certain Stainless Steel Hollow Products from Sweden, 52 FR 5794 (February 26, 1987). According to respondents, the creation of UES was in no way an "intra-corporate machination" by BSC. Instead, UES was a *bona fide* joint venture between BSC and GKN, resulting in a new commercial enterprise that was not under the control of BSC.

Respondents support the Department's preliminary determination not to attribute to UES any subsidies received by BSC in 1978–1986. In rejecting petitioners' contention that pre-1986 subsidies given to BSC should be applied to UES, respondents assert that the Department could only find UES to have been subsidized to the extent that UES securities transferred to BSC might be worth less than the value of the assets transferred to UES by BSC. Respondents maintain that this is logical because when ownership and control of an asset is transferred from a state-owned enterprise to a private company in an arm's length transaction or otherwise at market value, products from that company should not be subject to countervailing duties as a consequence of any past subsidies that the state-owned enterprise received.

According to respondents, the Department's preliminary decision is consistent with its established practice that purchasers of assets at fair market value from subsidized companies

should not be countervailed. Final Affirmative Countervailing Duty Determination; Oil Country Tubular Goods from Canada, (OCTG from Canada), 51 FR 15037 (April 22, 1986) and Lime from Mexico; Preliminary Results of Changed Circumstances, Countervailing Duty Administrative Review, 54 FR 1753 (January 17, 1989).

In addition, respondents argue that the CIT has implicitly endorsed the approach taken by the Department in its preliminary determination in *SSAB Svenskt Staal AB* v. *U.S.*, 764 F. Supp. 650 (CIT 1991), in which the court upheld the Department's determination that SSAB had received countervailable subsidies because it had purchased assets from a state-owned company at below their market value. Finally, respondents assert that the statutory provision regarding upstream subsidies provides further compelling support for the Department's approach in the preliminary determination. Section 771A of the Act provides that a subsidy on inputs used in the production of subject merchandise should be countervailed only if it "bestows a competitive benefit on the merchandise."

Respondents explain that petitioners incorrectly claim that the "offset provision" is relevant in this case. According to respondents, section 771(6) of the Act concerns the subtraction from the gross subsidy amount of any charges that reduce the value of the subsidy to the recipient. According to respondents, the offset provision does not set guidelines for the identification of a subsidy. *Alberta Park Producers' Marketing Board* v. *U.S.*, 669 F. Supp. 445, 452 (CIT 1987).

Respondents maintain that this case is distinguishable from the ongoing investigation of Certain Steel. According to respondents, the key issue in the present investigation is whether and when subsidy benefits received by one entity should be attributed to a second entity because the second entity owns some assets that were once owned by the subsidy recipient, *i.e.*, whether some portion of the subsidies provided to BSC "traveled" with those assets to their "new home" at UES. On the other hand, the Certain Steel investigation deals with the "extinguishment" of subsidies where the effect of the privatization of the subsidy recipient is the critical factor. Respondents state that, in the formation of UES, there was no sale by the UK government of its ownership in a state-owned company that had received past subsidies. Rather, there was merely a sale by BSC of a small portion of its assets to UES, an autonomous company formed through arm's length negotiations between BSC and GKN. Whether subsidies become an inherent part of the assets of a subsidized state-owned enterprise and, therefore, should be deemed to "travel" with those assets when they become owned by another party, is a key issue that the Department must resolve, according to respondents.

4. DOC Determination

Based upon a reconsideration of the preliminary determination and upon reviewing the comments submitted by the interested parties, the Department determines that a company's sale of a "business" or "productive unit" does not alter the effect of previously bestowed subsidies. The Department does not examine the impact of subsidies on particular assets or tie the benefit level of subsidies to changes in the company under investigation. Therefore, it follows that when a company sells a productive unit, the sale does nothing to alter the subsidies enjoyed by that productive unit.

The subsidies provided to a company presumably are utilized to finance operations and investments in the entire company, including productive units that are subsequently sold or spun off into joint ventures. Therefore, as the company disposes of its productive entities, these entities take a portion of the benefits with them when they "travel to their new home."

The Department has applied this analysis only to a subsidized company's "businesses" or "productive units," which are sold off. An analysis which would require the Department to examine each individual asset that a company sells would be administratively unfeasible. A subsidized company's sale of a productive unit is a more reasonable basis on which to allocate the pass-through of subsidies.

This approach avoids creating an opportunity for circumvention of the CVD law. Should be determine that the original recipient of subsidies continues receiving the entire benefit of those subsidies, we would not only leave companies like BSC "holding the bag," we would also invite subsidy recipients to sell off units that produce or export countervailed merchandise to the United States. In the end, a "bubble" of subsidies would remain with a virtually empty corporate shell which would not be affected by any countervailing duties because it did not produce or export the countervailed merchandise to the United States.

Based on this methodology, the Department considers the portion of BSC's Special Steels Business that was sold to UES a "productive unit" or business. Accordingly, the Department finds that a portion of the pre-1986 subsidies provided to BSC passed through to the Special Steels Business at its new "home," UES.

Based on the verification reports and other information submitted on the record of this investigation, we have found that the formation of UES was not simply a corporate restructuring, as alleged by petitioners. Therefore, subsidies provided to BSC after the formation of UES did not automatically pass through to UES. With respect to UES, the Department has found that this is an independent joint venture company, managed as a separate corporate entity from its parent companies BSC (from 1988: BS plc) and GKN. There is no information on the record to support petitioners' allegation that UES is a mere continuation of BSC's Special Steels Business.

UES was created after several years of difficult, arm's length negotiations between BSC and GKN and became a "limited" (*i.e.*, incorporated) company immediately upon its inception. We found nothing during verification which indicates that the negotiations for UES were not held at arm's length.

Because UES' two owners, BSC/BS plc and GKN, each hold 50 percent of the voting shares, there must be consensus between them for any proposal to pass. At verification, we reviewed the minutes of UES' board meetings for the first two years after the joint venture's formation. The minutes did not indicate that the board meetings were dominated by BSC. In addition, we studied documents which listed the members of UES' board and executive committee in 1986 and 1992. We noted that BSC/BS plc had fewer representatives on UES' board and committee than did GKN and other private sector companies. At verification, we also found that in 1988, BSC did not exercise its right to appoint the chairman of the board. Instead, BSC and GKN agreed to reappoint the then chairman, who was an ex-GKN official.

We also believe that UES is an independent corporate entity based on our examination of the business relationship between UES and BS plc, which continues for historical and practical reasons. We verified that the prices paid by UES to BS plc for raw materials are market, not transfer, prices. Other exchanges between the two companies are also made on normal commercial terms.

Based on this information, we find that UES is a separate corporate entity and not controlled by BSC. At verification, we found no evidence of

any mechanisms for passing through subsidies from BS plc to UES (*e.g.*, cash infusions) after the formation of the joint venture. Therefore, we determine that any benefits received by BSC after formation of the joint venture do not pass through to UES.

5. Allocation of Subsidies to UES

Because it is the Department's long-standing practice to allocate subsidies over the sales of the subject merchandise, it is reasonable to use the ratio between the sales of BSC's Special Steels Business and the sales of the entire BSC at the time of the formation of UES, *i.e.*, at the end of fiscal year 1985/86, as the basis on which we would apportion the subsidies to UES. However, consistent with our determination that subsidies follow productive units, we must also take into account subsidies allocated to the joint ventures and productive units that BSC formed or sold off prior to the formation of UES.

6. Prior Pass-Throughs

The Department's determination that a portion of the subsidies provided to BSC passed through to UES means that subsidies also passed through from BSC to other joint ventures which were formed and productive units which were sold off prior to the creation of UES. BSC's annual report for fiscal year 1984/85, which was provided with BS plc's questionnaire response, indicates that between fiscal years 1980/81 and 1984/85, BSC entered into 11 joint ventures and disposed of 41 productive units. In order to follow the same allocation methodology we applied to UES, we would need information concerning the value of the sales of each productive unit that went into a joint venture or was sold off at the time each unit was split off from BSC. However, we do not have such sales data on the record. Therefore, we have used information provided in BSC's 1983/84 and 1984/85 annual reports regarding the total book value of the assets split off from BSC in joint ventures and disposals between fiscal years 1980/81 and 1984/85 as a surrogate for the sales values.

7. Pass-Through Calculation

In order to calculate the amount of the benefit allocable to UES as a result of the pass-through of benefits from BSC, we first calculated the benefit attributable to BS plc in 1991 for all the countervailable subsidies the company received between fiscal years 1977/78 and 1983/84 (*i.e.*, equity infusions, regional development grants, and loan cancellation, as discussed below). We added a risk premium to the discount rates for the years 1977/78 through 1983/84, based on our determination that BSC was uncreditworthy in those years (see discussion, below).

We then calculated the "adjusted benefit stream" for BS plc reflective of the amount of subsidies which followed the productive units sold off by BSC through 1983/84. We did this by deducting a *pro rata* portion from BS plc's 1991 benefit amount based on the sold-off units' percentage of assets of BSC in fiscal year 1983/84. We repeated the same methodology for productive units sold in 1984/85, arriving at an adjusted benefit attributable to BS plc in 1991 reflective of productive units sold off prior to the formation of UES. Although the Department has determined that pass-through benefits should be measured on the basis of sales values, we have used the 1984/85 asset values as a surrogate because we lack the requisite sales information, as discussed in the "Prior Pass-Throughs" section above.

We then added to the adjusted benefit attributable to BS plc in 1991, the benefit attributable to BS plc in 1991 for subsidies BSC received in 1985/86. From this total benefit attributable to BS plc in 1991, we deducted a *pro rata* portion reflective of the Special Steels Business which was a split off from BSC to form UES. This *pro rata* portion was based on the Special Steels Business' 1984/85 sales as a percentage of total BSC sales in the same year. (Because 1984/85 was the last fiscal year for which such data was available for the Special Steels Business, we used the 1984/85 data as a surrogate for the sales values in 1985/86 when the Special Steels Business was transferred to UES.) We then divided the UES pass-through benefit by UES' total 1991 sales to arrive at an *ad valorem* subsidy of 12.69 percent.

II. Equityworthiness of BSC

The Department has previously determined that BSC was unequityworthy between 1977/78 and 1983/84 (see Final Affirmative Countervailing Duty Determination: Stainless Steel Sheet, Strip and Plate from the United Kingdom (Stainless Steel), 48 FR 19048 (April 27, 1983) and Final Results of Countervailing Duty Administrative Review, Stainless Steel Plate from the United Kingdom (Stainless Steel Review), 51 FR 34112 (September 25, 1986)). Petitioners have alleged that BSC remained unequityworthy through 1985/86. For fiscal years 1981/82 through 1985/86, BSC yielded negative returns on assets and equity. Times interest earned and BSC's profit margin were negative for fiscal years 1982/83 through 1984/85. Although BSC reported a profit in 1986, the profit margin on sales was only one percent. Furthermore, no dividends were distributed by BSC between 1977 and 1986.

Based on this information, we find that BSC was unequityworthy from 1977/78 through 1985/86.

III. Equity Methodology

According to section 355.49(e) of the Department's Proposed Regulations, we measure the benefit of equity investments in "unequityworthy" firms by comparing the national average rate of return on equity with the company's rate of return on equity during each year of the allocation period. The difference in these amounts, the so-called rate of return shortfall (RORS), is then multiplied by the amount of the equity investment to determine the countervailable benefit in the given year.

The Department has concluded that the RORS methodology does not provide an accurate measure of the benefits arising from government equity investments in unequityworthy companies. When the Department finds that a company is unequityworthy and, hence, that the government's equity investment is inconsistent with commercial considerations, we are effectively finding that the company could not attract capital from a reasonable investor. When a company is in such poor financial condition that it cannot attract capital, any capital it receives benefits the company as if it were a grant and no earnings of the company in subsequent years should be used to offset the benefit.

Moreover, in calculating the company's rate of return, no adjustment is made to eliminate the effect of past or current subsidies. Therefore, those subsidies that increase the company's rate of return serve to reduce the amount of the subsidy arising from government equity investments in subsequent years. In addition, this method does not compensate for the effect of prior year results on equity in subsequent years, thus measuring the rate of return against an equity other than that invested in the transaction in question.

For these reasons, we have determined that equity investments in unequityworthy companies will be treated as grants given in the year of the equity investment. Accordingly, we will value the benefits using the grant methodology described below.

Where a market-determined benchmark price for equity exists, we

will continue to use that benchmark to determine whether the government's purchase of equity confers a subsidy and to measure the amount of the subsidy.

IV. Creditworthiness

The petition did not specifically allege that BSC was uncreditworthy in the years that the company received subsidies. Thus, the Department did not examine BSC's creditworthiness in the instant case. However, in Stainless Steel and Stainless Steel Review, the Department determined that BSC was uncreditworthy from fiscal year 1977/78 through fiscal year 1983/84. Therefore, for purposes of this final determination, we have decided to treat BSC as uncreditworthy in those years.

V. Grant Methodology

Our policy with respect to grants is (1) to expense recurring grants in the year of receipt, and (2) to allocate non-recurring grants over the average useful life of assets in the industry, unless the sum of grants provided under a particular program is less than 0.5 percent of a firm's total or export sales (depending on whether the program is a domestic or export subsidy) in the year in which the grant was received. See, *e.g.*, Final Affirmative Countervailing Duty Determination; Fresh and Chilled Atlantic Salmon from Norway, (Salmon from Norway), 56 FR 7678 (February 25, 1991). We have considered the grants provided under the programs described below to be non-recurring, unless otherwise noted, because the benefits are exceptional, the recipient cannot expect to receive benefits on an ongoing basis from review period to review period, and/or the provision of funds by the government must be approved every year. See Final Affirmative Countervailing Duty Determination; Certain Fresh Atlantic Groundfish from Canada, 51 FR 10041 (March 24, 1986). Therefore, we have allocated the benefits over 15 years, which the Department considers to be reflective of the average useful life of assets in the steel industry (see section 355.49(b)(3) of the Proposed Regulations).

The benefit from each of the grant programs discussed below was calculated using the declining balance methodology described in the Department's Proposed Regulations (see section 355.49(b)(3)) and used in prior investigations (See, *e.g.*, salmon from Norway). For the discount rate, we used, whenever possible, each company's actual cost for long-term, fixed-rate debt. If a company did not report this cost, or when a company had no long-term borrowing in the year in which the grant was approved, we used the national average long-term interest rate. If a company was uncreditworthy in the year in which the grant was approved, we added a risk premium to the benchmark interest rate in accordance with § 355.44(b)(6)(iv) the Proposed Regulations.

VI. Programs Determined To Confer Subsidies

We determined that subsidies are being provided to manufacturers, producers, or exporters in the United Kingdom of certain additive steel products as follows. UES' subsidy rate calculated for these programs appears in the "Pass-Through Calculation" section of this notice.

1. Equity Infusions

BSC received equity capital from the Secretary of State for Trade and Industry pursuant to section 18(1) of the Iron and Steel Acts 1975, 1981, and 1982 (section 18(1)). According to section 18(1), the Secretary of State for the Department of Trade and Industry may "pay to the Corporation (BSC) such funds as he sees fit." We verified that this equity capital was received every fiscal year from 1977/78 through 1985/86. The UK government's equity investments in BSC were made pursuant to an agreed external financing limit which was based upon medium-term financial projections. BSC's performance was monitored by the UK government on an ongoing basis and requests for capital were examined on a case-by-case basis. The UK government did not receive any additional shares of equity of additional rights in return for the capital provided to BSC under section 18(1) since it already owned 100 percent of the company.

Because we have found BSC to be unequityworthy, we determine that the UK government's equity infusions are inconsistent with commercial considerations.

Prior to the formation of UES, BSC's equity was written off in two stages under the Iron and Steel Acts 1981 and 1982 as part of a capital reconstruction of BSC during that time period. These write-offs of capital were in recognition that trading losses could not be recovered out of existing assets. First, the 1981 Act reduced by £3,000 million the sums invested in BSC by the UK government under section 18(1). Second, a further reduction of £1,000 million was taken in 1982 pursuant to a statutory instrument (the British Steel Corporation Reduction of Capital Order) under the Iron and Steel Act 1982.

We have further determined that BSC benefitted by virtue of equity infusions inconsistent with commercial considerations, and not through the subsequent write-off of the equity. Therefore, we are countervailing the equity investments as grants given in the years the equity capital was received.

We calculated the benefit for the POI using our standard methodology for non-recurring grants (see "Grant Methodology" section above). Because we have determined that BSC was uncreditworthy from 1977/78 through 1983/84, we used a risk premium in deriving the discount rate for these years.

2. Loan Cancellation

In conjunction with the 1981/1982 capital reconstruction of BSC, section 3(1) of the Iron and Steel Act 1981 extinguished £9,308,569 of National Loans Fund (NLF) loans, together with accrued interest thereon, at the end of BSC's 1980/81 fiscal year.

Because this loan cancellation was provided specifically to BSC, we determine that it is a countervailable benefit.

We calculated the benefit for the POI using our standard methodology for non-recurring grants (see "Grant Methodology" section above). Because we have determined that BSC was uncreditworthy in 1981, we used a risk premium in deriving the discount rate for that year.

3. Regional Development Grants

Regional development grants were paid to BSC and Glynwed under the Industry Act 1972 and the Industrial Development Act 1982. In order to quality for assistance under these two Acts, an applicant had to be engaged in manufacturing and located in an assisted area. Assisted areas were older, industrial areas identified as having deep-seated, long-term problems such as high levels of unemployment, migration, slow economic growth, derelict land, and obsolete factory buildings.

Regional development grants were paid for the purchase of specific assets. According to the UK government, they involved one-time grants, the disbursement of which was sometimes spaced over several years.

BSC received regional development grants between fiscal years 1977/78 and 1985/86. Glynwed received regional development grants in 1981 and 1986.

Since this program is limited to specific regions, we find it countervailable within the meaning of section 771(5) of the Act. Because the

receipt of these grants was based on separate applications, which have to meet the required criteria, we have determined these grants to be non-recurring.

We calculated the benefit for the POI using our standard methodology for non-recurring grants (see "Grant Methodology" section above.) For Glywed, we divided the benefit by Glywed's total sales to calculate the *ad valorem* subsidy. On this basis, we determine the net subsidies for this program to be *de minimis* for Glynwed.

VII. Programs Determined Not To Be Countervaillable

1. £55 Million Loan to UES

During our verification of the UK government's questionnaire response, we learned that the government had agreed to make section 18(1) funds available to BSC for purposes of the UES joint venture. According to government officials, £30 million of the £55 million loanded by BSC to UES were part of the last section 18(1) payment made to BSC in January 1986. At verification, the UK government stated that BSC was able to provide the remaining £25 million out of its own funds.

Once these funds were used by UES for construction of a bloom caster at one of its facilities, the loan was to be converted into a combination of preference shares at a total value of £35 million and loan stock at a total value of £20 million. By September 30, 1988, the entire loan amount had been converted accordingly. The £20 million loan stock was repaid by UES on January 2, 1990.

We determine that the £55 million in funding was tied to the UES joint venture and, thus, did not become part of the "pool" of benefits enjoyed by BSC and partially passed through to UES. Therefore, we have excluded the verified loan amount received from the government from BSC's "pool" of benefits.

Because the loan stock was repaid prior to the POI, we determine that it did not provide countervailable benefits to UES during the POI. Therefore, we are only concerned with the £35 million converted to equity. Our analysis shows that UES received this funding on terms consistent with commercial considerations. Based on our review of UES' financial statements, we have found UES to be equityworthy in the years when the conversions took place, *i.e.*, from 1986 through 1988. Therefore, we determine the £35 million to be an equity investment consistent with commercial considerations.

2. Formation of UES

At the formation of UES, GKN received a premium for its higher historic profitability. At the time of our preliminary determination, we did not believe that the record supported respondents' contention that GKN was entitled to such a premium. Based on our rejection of respondents' arguments regarding the premium paid to GKN, we preliminarily determined that BSC had overpaid for its shares in UES and that the amount of the overpayment constituted a countervailable subsidy. Therefore, we adjusted the price per share paid by GKN and then used the adjusted price to measure the amount by which BSC had overpaid for its shares in UES.

Based on our review of documentation received at verification (most of which is proprietary), we have accepted that GKN was entitled to a premium due to its better profit record. At verification, we learned that the profits discussed in the joint venture negotiations were based on the subtotal profit line. The definition of subpart profit was agreed to by the negotiating parties and was verified by, Coopers & Lybrand. It is normal practice for the parties to a negotiation of this type to define the terms used in the negotiation. Our review of the parties' subtotal profits revealed that GKN's Brymbo Steel Works and forging operations were consistently more profitable than BSC's Special Steels Business. Accordingly, we find that BSC and GKN paid the same amount per share for UES and, as a result, BSC's investment in UES was on terms consistent with commercial consideration.

3. Energy Efficiency Best Practice Program

The objective of this program is to disseminate information on new energy savings techniques which are economically viable and show a net savings potential of at least £500,000. In 1991, UES was awarded a grant under this program of £10,000, of which £5,000 was disbursed in the POI.

At verification, we verified that there were no limitations on the type of industries which could use this program. Furthermore, we verified that the program is actually used by a broad range and a large number of industries. Therefore, we have determined this program to be both *de jure* and *de facto* non-specific. On this basis, we determine that the Energy Efficiency Best Practice Program is not countervailable.

VIII. Best Information Available (BIA) for ASW

ASW, which is a joint venture company formed in 1981 between BSC and GKN, withdrew from participation in this investigation prior to vertification. Because ASW refused verification of its questionnaire response, as BIA we are assuming that ASW received the same benefits as BSC in 1981 (the year ASW was formed). Therefore, we are assigning ASW a rate of 20.33 percent, the rate calculated for BSC in our Final Affirmative Countervailing Duty Determinations: Carbon Steel Structural Shapes, Hot-Rolled Carbon Steel Plate, and Hot-Rolled Carbon Steel Bar from the United Kingdom; and Final Negative Countervailing Duty Determination: Cold-Formed Carbon Steel Bar from the United Kingdom, 47 FR 39384 (September 7, 1982). This rate was the highest rate calculated for a company in that investigation and, therefore, an appropriate rate as BIA.

Comments

Comment 1: 1988 Privatization of BSC

According to respondents, if the Department were to determine that BSC did control UES, it might then allocate pre-1986 subsidies received by BSC to UES. While respondents believe that this finding would be incorrect, if the Department were to allocate pre-1986 subsidies to UES, it would have to consider the affects of the 1988 privatization of BSC upon the pre-1986 subsidies allocated to UES. This is because the 1989 privatization of BSC resulted in a shift in control of UES, according to respondents.

DOC Position: Because of our determination that BSC did not control UES (see discussion in the "Pass-Through" section above), we recognize that although there may have been a change in control of BSC after its 1988 privatization, there was not a change on the control of UES. In other words, the corporate structure of UES remained the same after the 1988 extinguishment of subsidies requires both payment of fair market value in an arm's length transaction and transfer of control. Because there was no change in UES' control in 1988, there was no change it is subsidies, even under respondents' methodology.

Comment 2: Measurement of Pass-Through

Petitioners argue that the Department should measure any pass-through of benefits from BSC to UES on the basis of 1986 sales attributable to the assets contributed by BSC to the joint venture as a percentage of total BSC sales for

1986. According to petitioners, because the rate of duty is calculated by dividing the subsidy by the company's sales during the POI, it is logical that the subsidies should be also allocated between BSC and UES on the basis of sales. However, other counsel for petitioners, with permission to appear on their behalf in this investigation (hereinafter: Petitioners' other counsel), argue that the pass-through of benefits from BSC to UES should be measured on the basis of the relative net sales of the two companies in the POI.

Respondents argue that the essence of petitioners' subsidy pass-through argument is that a subsidy benefits the assets of the recipient firm. According to respondents' if the Department agrees with petitioners' analysis, it must calculate subsidies to UES on the same theoretical basis that petitioners argue should be the basis for attribution in the first place, *i.e.*, the percentage of assets contributed by BSC to UES as a percentage of BSC's total assets, taking into account previous joint ventures, disposals, and shut-downs.

DOC Position: We disagree with petitioners' other counsel. Pass-through should not be measured by 1991 sales because of our determination that UES agree with petitioners. Because it is the Department's long-standing practice to allocate subsidies over the sales of the subject merchandise, it is reasonable to use the ratio between the sales of BSC's Special Steels Business and the sales of the entire BSC at the end of fiscal year 1985/86 (BSC's fiscal year 1985/86 ended in March 1986, *i.e.*, the same month as UES was formed) as the basis on which we would apportion the subsidies to UES. See discussion 1986, *i.e.*, the same month as UES was formed) as the basis on which we would apportion the subsidies to UES. See discussion under the "Measurement of Pass-Through" section above.

Comment 3: The Formation of the UES Joint Venture

According to petitioners, UES are subsidized directly because BSC and the UK government allowed GKN credit for far more than the actual value of the assets GKN contributed. While petitioners agree with the Department's preliminary determination that BSC overpaid for the shares it received in UES, petitioners state that the Department's calculations of the benefit to UES for such overpayment are understated.

Petitioners argue that BSC's contribution to the joint venture was far greater than GKN's if one takes into account the overvaluations of Brymbo and GKN's past profits, the various accounting differences between BSC and GKN, and BSC's payment of the costs for closing one of its production facilities (Tinsley Park).

Respondents claim that the Department erred in its conclusion that UES' securities received by BSC did not reflect the value of the assets transferred to UES by BSC. Coopers & Lybrand did an analysis upon the formation of UES called "The Completion Accounts." As a result of this analysis, it was concluded that the financial results of the assets contributed by GKN were better than the results of the assets contributed by BSC.

Respondents also point out that the differences in accounting treatments of GKN and BSC referenced by petitioners were taken into account in determining the relative number of UES shares that the parties were to receive.

DOC Position: As stated above, based on our review of documentation received at verification (most of which is proprietary) we agree that GKN was entitled to a premium due to its better profit record. With respect to the closure of Tinsley Park, we found that GKN's premium was reduced in order to reflect GKN's "share" of the costs incurred by BSC for closing Tinsley Park. Based on our review of proprietary information, we also found at verification that the closure of Brymbo and the accounting differences between the parties should not be considered benefits. Therefore, we determine that BSC's investment in UES was consistent with commercial considerations.

Comment 4: Control Premium

Citing *Honigman* v. *Green Giant Co.*, 309 F.2d 667, 668–70 (8th Cir. 1962), *cert. den.*, 472 U.S. 941 (1963), petitioners state that it is accepted that "control" of a company is an economic asset and the property of a stockholder who owns sufficient stock, not of the corporation controlled. Because BSC accepted an even split in control of UES when it contributed more than GKN to the joint venture, petitioners argue that the additional amount of BSC's contribution should be considered a "control premium." This control premium should be considered a subsidy to UES.

Respondents argue that there is no reason for BSC to receive additional compensation for allowing joint control of UES. According to respondents, a control premium may occur when shareholders are selling their shares to a buyer who wants to bring in new management, but it is not relevant to the creation of a new company where all participants will receive the benefits of improved management, as was the case with UES. The concept of a control premium is inapplicable to the formation of UES, since BSC was not an existing shareholder, but rather was participating in a joint venture which BSC specifically intended as an independent company.

DOC Position: Based on the arguments submitted by petitioners, we are not persuaded that a control premium is relevant to this transaction. The examples cited by petitioners did not involve the formation of a joint venture.

In the case of UES, it appears that the government placed relatively less importance on control than did GKN. The government, in fact, sought private sector management of the new company, while GKN would not have participated in the joint venture if the government's voting shares were commensurate with its contribution. Nevertheless, we do not believe that this single element of the negotiations should be carved out of the larger context. There were many elements of the negotiations and we have concluded that the package viewed in its entirety represented an arm's length transaction in which BSC acted consistently with commercial considerations.

Comment 5: Equity v. Grants

In *Certain Steel*, the Department preliminarily determined that equity infusions should be treated as grants (57 FR 57734, December 7, 1992). Petitioners argue that the same methodology should be adopted here.

Respondents argue that the Department's RORS methodology accurately reflects the amount of the subsidy associated with equity infusions in an unequityworthy business enterprise. According to respondents, the essence of the subsidy is the fact that the unequityworthy enterprise is not expected to meet a performance standard (*i.e.*, yield a commercial return). The difference between the actual rate of return and an appropriate national average benchmark rate of return is a fair measure of that benefit.

Respondents state that there is a basic fallacy in the argument that (1) there is no difference between an investment in an unequityworthy company and an outright grant, and (2) that the subsidies associated with equity investments should not be calculated under the RORS methodology. Respondents point out that a *grant* is a donation with no expectation of return by the donor. An investment, however, is made with the expectation of financial return. In some cases, an investment will be made in order to enhance the value of an enterprise that will soon be up for sale. Viewed in this way, section 18(1)

monies paid by the UK government of BSC were clearly investments, not grants, according to respondents. At the same time, respondents note, if the Department treats section 18(1) monies as previously forgiven "debt," as suggested by petitioners, the Department must agree that the government got back a portion of the "debt" in 1988 when BSC was privatized. This privatization reduced by a like amount any unamortized portion of alleged subsidy benefits to BSC.

DOC Position: As explained above, we have determined that the RORS methodology does not adequately measure the benefit arising from an equity investment in an unequityworthy company. If we find a company to be unequityworthy, that finding is tantamount to saying that a reasonable investor would not invest in that company. Therefore, from the company's point of view, any equity capital it receives form the government is equivalent to a grant. Consequently, we have measured the benefit to the recipient company using the grant methodology. However, this does not mean that grants and equity are the same. Normally, equity investments are made with some expectation of return. Grants are not. As respondents have pointed out, this is what distinguishes grants from equity infusions.

Comment 6: Equity—Commercial Considerations Standard

Respondents argue that, in interpreting the commercial considerations standard for purposes of analyzing equity investments, the Department improperly focuses on the company's prospects from the standpoint of an outside investor. According to respondents, it may be commercially justifiable for an inside investor to make continued investments in a loss-making company even if a reasonable outside investor would not have invested in that company. Respondents argue that the statute does not compel the Department to use the outside investor test. Furthermore, from an economic standpoint, respondents argue that an outside investor's decisions are not influenced by the recovery of an existing investment as with an inside investor. Finally, respondents argue that investors and creditors of economically distressed companies routinely decide, on grounds that are economically and financially sound, to invest money or to forbear from taking funds out of the enterprise.

DOC Position: We do not believe that we should have a separate standard for an "inside investor." We believe that, in general, both inside and outside investors make investment decisions at the margin. As we stated in the Final Affirmative Countervailing Duty Determination; Steel Wheels from Brazil, 54 FR 15523 (April 18, 1989) "a rational investor does not let the value of past investments affect present or future investment decisions. The decision to invest is only dependent on the marginal return expected from each additional equity infusion."

Comment 7: Recurring vs. Nonrecurring Benefits

Respondents argue that the ten consecutive years of section 18(1) funds provided by the UK government to BSC meet all three criteria of the Department's standards for finding subsidies to be recurring.

First, respondents argue that the funds, provided pursuant to parliamentary enactment, were not "exceptional." Citing *Algoma Steel Corporation* v. *United States,* (Algoma Steel), USA–89–1904–07, ("by any common meaning of the word, ten years out of ten years is long-standing"), respondents argue that the program, which lasted ten consecutive years, was clearly long-standing. Finally, at the time the program was first established, there was no reason to believe that the program would not continue in the future.

Petitioners state that, when evaluated in the context of the Department's three-part test, the subsidies provided to BSC in the form of section 18(1) funds should be considered non-recurring.

Petitioners dispute respondents' use of *Algoma Steel* to show that the equity infusions were recurring. Petitioners note that *Algoma Steel* was a case in which there was an explicit agreement to service debt by the Province of Nova Scotia, while BSC's equity infusions existed and were given without the benefit of a stated agreement. Furthermore, the CIT rejected respondents' contention and approved the Department's decision to treat these subsidies as non-recurring. Thus, *Algoma Steel* throws no new light on this subject.

DOC Position: At verification, we learned that the equity infusions provided by the UK government to BSC were intended to aid BSC until it became viable. Therefore, BSC had reason to believe that the program would not continue once the company had reached viability. At verification, company officials informed the Department that it was clear that BSC would become viable in the future, as evidenced by the White Paper "The Road to Viability." Furthermore, government officials informed the Department during verification that there was no automatic payment of funds by the government. Because the equity infusions do not meet the criteria for finding subsidies to be recurring, we are treating these infusions as non-recurring. See also Stainless Steel Review.

Comment 8: Amortization Period

According to respondents, the CIT has twice rejected the Department's use of average service life of industry assets as a measure of the duration of subsidy benefits. Respondents argue that, consistent with practice in other areas, the Department should determine the duration of benefits by reference to the weighted average maturity of the respondent company's total indebtedness or, alternatively, to an appropriate industry average.

Petitioners argue that because the period over which a subsidy confers benefits may be equally long whether used for capital investment or other purposes, the Department's longstanding policy of using a 15-year amortization period for all non-recurring subsidies in steel cases is appropriate and should be continued.

With respect to subsidies that support capital investment, Congress explicitly intended that countervailing duties be imposed over a period that would coincide with the period during which the subsidy benefits the recipient. S. Rep. No. 249 at 86, 1979 U.S.C.C.A.N. at 471–72, see also H. Rep. 317 at 74–75. Petitioners note that the Department, the CIT, and the Court of Appeals for the Federal Circuit have agreed that subsidies for general corporate purposes may provide as important a benefit, over as long a period, as a subsidy for capital investment. *IPSCO, Inc.* v. *United States,* 710 F. Supp. 1581, 1583 (CIT 1989), *aff'd* 899 F. 2d 1192, 1198 (Fed. Cir. 1990). Therefore petitioners state that the Department's long-held policy of amortizing all non-recurring subsidies over a 15-year period in steel cases should be continued.

DOC Position: While the Department has indicated its willingness to consider a ten-year allocation period generally (see the Preamble to the Proposed Regulations), nothing that the parties have argued leads us to conclude that we should depart the 15-year standard. Therefore, we have continued to use the 15-year allocation period based on the 1977 IRS depreciation table, as amended in 1985, covering renewable assets for steel.

Verification

In accordance with section 776(b) of the Act, we verified the information used in making our final determination. We followed standard verification procedures, including meeting with government and company officials, examination of relevant accounting records, and examination or original source documents. Our verification results are outlined in detail in the public versions of the verification reports, which are on file in the Central Records Unit (room B–099 of the Main Commerce Building).

Suspension of Liquidation

In accordance with section 705(c) of the Act, we are directing the Customs Service to continue to suspend liquidation of entries of certain additive steel products from the United Kingdom, which are entered or withdrawn from warehouse for consumption on or after the date of publication of this notice in the **Federal Register**, and to require a cash deposit or bond of estimated countervailing duties at the following rates:

Company	Ad valorem rate (percent)
ASW	20.33
UES	12.69
All others	12.69

Because the estimated net subsidy for Glynwed is *de minimis*, Glynwed is exempt from the suspension of liquidation.

ITC Notification

In accordance with section 705(d) of the Act we will notify the ITC of our determination. In addition, we are making available to the ITC all nonprivileged and nonproprietary information relating to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Deputy Assistant Secretary for Investigations, Import Administration.

If the ITC determines that material injury, or the threat of material injury, does not exist, these proceedings will be terminated and all estimated duties deposited or securities posted as a result of the suspension of liquidation will be refunded or cancelled. If, however, the ITC determines that such injury does exist, we will issue a CVD order, directing Customs officers to assess countervailing duties on entries of certain additive steel products from the United Kingdom.

Return or Destruction of Proprietary Information

This notice serves as the only reminder to parties subject to an administrative protective order (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 355.34(d). Failure to comply is a violation of the APO.

This determination is published pursuant to section 705(d) of the Act (19 U.S.C. 1671d(d) and 19 CFR 355.20(a)(4).

Dated: January 19, 1993.

Alan M. Dunn,

Assistant Secretary for Import Administration.

[FR Doc. 93–1906 Filed 1–26–93; 8:45 am]

BILLING CODE 3510–DS–M

[C–351–062]

Pig Iron From Brazil; Preliminary Results of Countervailing Duty Administrative Review

AGENCY: International Trade Administration/Import Administration, Department of Commerce.

ACTION: Notice of preliminary results of countervailing duty administrative review.

SUMMARY: The Department of Commerce is conducting an administrative review of the countervailing duty order on pig iron from Brazil. We preliminarily determine the net subsidy to be zero for all firms for the period January 1, 1991 through December 31, 1991. We invite interested parties to comment on these preliminary results.

EFFECTIVE DATE: January 27, 1993.

FOR FURTHER INFORMATION CONTACT: Anne S. D'Alauro, Dana S. Mermelstein, or Maria P. MacKay, Office of Countervailing Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 482–2786.

SUPPLEMENTARY INFORMATION:

Background

On April 8, 1992, the Department of Commerce (the Department) published in the **Federal Register** a notice of "Opportunity to Request Administrative Review" (57 FR 11934) of the countervailing duty order on pig iron from Brazil (45 FR 23045; April 4, 1980). We received requests for review from Associated Metals and Minerals Corporation, Sumitomo Corporation of America, and Caterpillar World Trading Corporation, interested parties within the meaning of section 355.2(i) of the Department's regulations. We initiated the review covering the period January 1, 1991 through December 31, 1991, on May 22, 1992 (57 FR 21769). The Department is now conducting this review in accordance with section 751 of the Tariff Act of 1930, as amended (the Act). The final results of the last administrative review of this order were published on March 26, 1992 (57 FR 10460).

Scope of Review

Imports covered by this review are shipments of pig iron of basic, malleable, and low phosphorous grades, from Brazil. During the review period, such merchandise was classifiable under item numbers 7201.10.00, 7201.30.00, and 7206.10.00 of the Harmonized Tariff Schedule (HTS). The HTS numbers are provided for convenience and Customs purposes. The written description remains dispositive.

The review covers the period January 1, 1991 through December 31, 1991, twenty-two companies, and seven programs.

Analysis of Programs

(1) Programs Terminated

We examined the following programs and preliminarily determine that they have been terminated by the Government of Brazil:

A. Income Tax Reduction for Export Earnings.

Decree Law 8034 of April 12, 1990 eliminated this tax reduction and established a prevailing income tax rate for all industries of 30 percent for domestic and export earnings for tax year 1990 (the 1990 tax returns are filed in 1991). See, Final Negative Countervailing Duty Determination: Silicon Metal From Brazil (56 FR 26988; June 12, 1991).

B. CACEX Preferential Working Capital Financing for Exports. This program was terminated effective August 30, 1990, by Central Bank Resolution 1744. *Id.* There were no residual benefits to pig iron producers provided under this program during the review period.

(2) Programs Not Used

A. FINEX preferential financing under Resolutions 68 and 509. This program was terminated on October 5, 1990 by constitutional provision. Law Number 8.187 dated June 1, 1991 reestablished

the program under the name of PROEX, but according to the questionnaire response, pig iron producers are not eligible to apply for or receive benefits under PROEX.

B. SUDENE Corporate Income Tax Reduction for Companies Located in the Northeast of Brazil.

None of the pig iron exporters are located in the areas eligible for benefits under this program.

C. Other Program

• BEFIEX Reduction of Taxes and Import Duties.

• Accelerated Depreciation on Brazilian-made Capital Equipment.

• FINEP preferential financing program.

Preliminary Results of Review

As a result of our review, we preliminarily determine the net subsidy to be zero for all firms for the period January 1, 1991 through December 31, 1991.

Upon completion of this review, the Department intends to instruct the Customs Service to liquidate, without regard to countervailing duties, all shipments of pig iron from Brazil exported on or after January 1, 1991 and on or before December 31, 1991.

The Department also intends to instruct the Customs Service not to collect cash deposits of estimated countervailing duties, as provided by section 751(a)(1) of the Act, on any shipments of pig iron from Brazil entered, or withdrawn from the warehouse, for consumption on or after the date of publication of the final results of this administrative review.

Interested parties may request a hearing not later than 10 days after the date of publication of this notice. Interested parties may submit written arguments in case briefs on these preliminary results within 30 days of the date of publication. Rebuttal briefs, limited to arguments raised in case briefs, may be submitted seven days after the time limit for filing the case brief. Any hearing, if requested, will be held within seven days after the scheduled date for submission of rebuttal briefs. Copies of case briefs and rebuttal briefs must be served on interested parties in accordance with 19 CFR 355.38(e).

Representatives of parties to the proceeding may request disclosure of proprietary information under administrative protective order no later than 10 days after the representative's client or employer becomes a party to the proceeding, but in no event later than the date the case briefs, under section 355.38(c), are due.

The Department will publish the final results of this administrative review including the results of its analysis of issues raised in any case or rebuttal brief or at a hearing.

This administrative review and notice are in accordance with section 751(a)(1) of the Act (19 U.S.C. 1675(a)(1)) and 19 CFR 355.22.

Dated: January 4, 1993.

Rolf Th. Lundberg, Jr.,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 93–2000 Filed 1–26–93; 8:45 am]

BILLING CODE 3510–DS–M

National Oceanic and Atmospheric Administration

Coastal Zone Management: Federal Consistency Appeal by the Virginia Electric and Power Company From an Objection by State of North Carolina Department of Environment, Health and Natural Resources

AGENCY: National Oceanic and Atmospheric Administration, Commerce.

ACTION: Notice of dismissal.

On December 3, 1992, the Secretary of Commerce (Secretary) terminated the consistency appeal of the Virginia Electric and Power Company (Appellant) filed on October 3, 1991, with the Secretary pursuant to section 307(c)(3)(A) of the Coastal Zone Management Act of 1972 (CZMA), as amended 16 U.S.C. 1451 *et seq.*, and the Department of Commerce's implementing regulations at 15 CFR part 930, subpart H. The appeal was taken from an objection by the State of North Carolina Department of Environment, Health and Natural Resources (State) to the Appellant's consistency certification that its proposal for a Federal Energy Regulatory Commission license amendment involving the permanent, consumptive withdrawal of approximately 60,000,000 gallons of water each day from Lake Gaston (located just north of the Virginia-North Carolina border), is consistent with the State's federally-approved Coastal Management Program (CMP).

The State objected to the Appellant's consistency certification for the proposed project on the ground that downstream effects on important fisheries, wetlands, and the hydrology of the Roanoke River and Albemarle-Pamlico Sound were not consistent with the State's CMP policies.

During the course of the appeal, the Appellant filed a motion for the expeditious termination of the consistency review process for lack of jurisdiction. The motion was based on legal interpretations propounded by the Department of Justice concerning the scope of a State's review authority under the Federal consistency provisions of the CZMA. The Secretary found that the proposed activity occurs wholly in another state. In addition, she deferred, in this case, to the legal opinion of the Department of Justice (Justice) that the CZMA does not authorize one state to object to a project located wholly within another state, regardless of the effects of that project on the coastal zone. The Secretary terminated the appeal in favor of the Appellant by finding that the State's objection was improperly lodged.

FOR ADDITIONAL INFORMATION CONTACT: Margo E. Jackson, Assistant General Counsel for Ocean Services, National Oceanic and Atmospheric Administration, U.S. Department of Commerce, 1825 Connecticut Avenue, NW., suite 603, Washington, DC 20235, (202) 606–4200.

(Federal Domestic Assistance Catalog No. 11.419 Coastal Zone Management Program Assistance)

Dated: January 19, 1993.

James W. Brennan,

Acting General Counsel.

[FR Doc. 93–1927 Filed 1–26–93; 8:45 am]

BILLING CODE 3510–08–M

Marine Mammals; Permits

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

ACTION: Issuance of Scientific Research Permit No. 809.

SUMMARY: On November 30, 1992, notice was published in the **Federal Register** (57 FR 56564) that a request for a scientific research permit to take marine mammals (p771#64) had been submitted by the Alaska Fisheries Science Center, NMFS, NOAA, National Marine Mammal Laboratory, 7600 Sand Point Way, NE., Bldg. 4, Seattle, WA 98115, to conduct scientific research on Steller sea lions (*Eumetopias jubatus*) over a five-period.

Notice is hereby given that on January 19, 1993, as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), sections 216.33 (d) and (e) of the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216), the Endangered Species Act (16 U.S.C. 1531–1543) and the regulations governing endangered fish and wildlife (50 CFR parts 217–222), the National Marine Fisheries Service issued the requested Permit for the above activities

subject to the Special Conditions set forth therein.

The Permit and other related documentation are available for review by interested persons in the following offices by appointment:

Office of Protected Resources, National Marine Fisheries Service, NOAA, 1335 East West Highway, room 7330, Silver Spring, MD 20910 (301/713–2289);

Director, Alaska Region, National Marine Fisheries Service, NOAA, Federal Annex, 9109 Mendenhall Mall Rd. suite 6, Juneau, AK 99802 (907/586–7221); and

Director, Northwest Region, National Marine Fisheries Service, NOAA, 7600 Sand Point Way, NE., BIN C15700, Bldg. 1 Seattle, WA 98115 (206/526–6150).

Dated: January 19, 1993.

Michael F. Tillman,

Acting Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 93–1931 Filed 1–26–93; 8:45 am]

BILLING CODE 3510–22–M

Marine Mammals; Permits

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

ACTION: Issuance of Marine Mammal Permit (P522).

On November 16, 1992, notice was published in the **Federal Register** (57 FR 54051) that an application had been filed by Joseph A. Cook, Ph.D., curator of Mammals, University of Alaska Museum, 907 Yukon Drive, Fairbanks, AK 99775–1200, to obtain, import and export samples obtained from all species of the Orders Cetacea and Pinnipedia (except walrus) which were either found stranded dead or were caught incidentally in a commercial fishery.

Notice is hereby given that on January 19, 1993, as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407) and the Endangered Species Act of 1973 (16 U.S.C. 1531–1543), the National Marine Fisheries Service issued a Permit for the above activity, subject to certain Conditions set forth therein.

The application and accompanying documentation satisfy the issuance criteria for scientific research permits. The requested activities are consistent with the purposes and policies of the MMPA. The research will further a *bona fide* scientific purpose that does not involve unnecessary duplication of other research.

Issuance of this Permit for the importation of endangered species as required by the Endangered Species Act of 1973 was based on a finding that such Permit; (1) was applied for in good faith; (2) will not operate to the disadvantage of the endangered species which are the subject of this Permit; and (3) is consistent with the purposes and policies set forth in Section 2 of the Endangered Species Act of 1973. This Permit was also issued in accordance with and is subject to parts 220–222 of title 50 CFR, the National Marine Fisheries Service regulations governing endangered species permits.

Documents submitted in support of this Permit are available for review, by appointment, in the:

Permits Division, Office of Protected Resources, National Marine Fisheries Service, NOAA, 1335 East-West Hwy., suite 7324, Silver Spring MD 20910 (301/713–2289);

Director, Alaska Region, National Marine Fisheries Service, NOAA, Federal Annex, 9109 Mendenhall Mall Rd., suite 6, Juneau, AK 99802 (907/586–7221);

Director, Southeast Region, National Marine Fisheries Service, NOAA, 9450 Koger Blvd., St. Petersburg, FL 33702 (813/893–3141);

Director, Northeast Region, National Marine Fisheries Service, NOAA, One Blackburn Drive, Gloucester, MA 01930 (508/281–9200);

Director, Northwest Region, National Marine Fisheries Service, NOAA, 7600 Sand Point Way, NE., BIN C15700, Seattle, WA 98115 (206/526–6150); and

Director, Southwest Region, National Marine Fisheries Service, NOAA, 501 West Ocean Boulevard, suite 4200, Long Beach, CA 90802–4213 (310/980–4015).

Dated: January 19, 1993.

Michael F. Tillman,

Acting Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 93–1932 Filed 1–26–93; 8:45 am]

BILLING CODE 3510–22–M

Marine Mammals; Permits

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

ACTION: Issuance of modification to Permit No. 738 (P77#51).

Notice is hereby given that pursuant to the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), § 216.33 (d) and (e) of the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216), the Endangered Species Act (16 U.S.C. 1531–1543) and the regulations governing endangered fish and wildlife (50 CFR parts 217–222), and the Conditions hereinafter set out, Scientific Research Permit No. 729, issued to the Southeast Fisheries Science Center, National Marine Fisheries Service, 75 Virginia Beach Drive, Miami, FL 33149, on May 16, 1991 (56 FR 23684), has been modified to authorize descent from 750 ft to 300–500 ft to enable researchers to distinguish between Balaenopterid whales (excluding *Megaptera novaeangliae*) during aerial surveys to be conducted over the remaining three-year period that the Permit is valid.

Issuance of this Permit as required by the Endangered Species Act of 1973 was based on a finding that such Permit; (1) was applied for in good faith; (2) will not operate to the disadvantage of the endangered species which is the subject of this Permit; (3) is consistent with the Act of 1973. This Permit was also issued in accordance with and is subject to parts 220–222 of title 50 CFR, the National Marine Fisheries Service regulations governing endangered species permits.

This Modification became effective upon signature.

The Permit and Modification documentation are available for review in the following offices by appointment.

Permit Division, Office of Protected Resources, National Marine Fisheries Service, NOAA, 1335 East-West Hwy., Silver Spring, MD 20910 (301/713–2289); and

Director, Southeast Region, National Marine Fisheries Service, NOAA, 9450 Koger Blvd., St. Petersburg, FL 33702 (813/893–3141).

Dated: January 19, 1993.

Michael F. Tillman,

Acting Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 93–1934 Filed 1–26–93; 8:45 am]

BILLING CODE 3510–22–M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Amendment of Import Limits for Certain Cotton Textile Products Produced or Manufactured in the Federative Republic of Brazil

January 22, 1993.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs amending limits.

EFFECTIVE DATE: January 29, 1993.

FOR FURTHER INFORMATION CONTACT: Nicole Bivens Collinson, 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) 927–5850. 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).

In a Memorandum of Understanding (MOU) dated January 13, 1993 between the Governments of the United States and the Federative Republic of Brazil, agreement was reached to amend the current limits for Categories 350 and 363 for the period beginning on April 1, 1992 and extending through March 31, 1993.

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 57 FR 54976, published on November 23, 1992). Also see 57 FR 21971, published on May 26, 1992.

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 MOU, but are designed to assist only in the implementation of certain of its provisions.

J. Hayden Boyd,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

January 22, 1993.

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 May 19, 1992, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool and man-made fiber textile products, produced or manufactured in Brazil and exported during the twelve-month period which began on April 1, 1992 and extends through March 31, 1993.

Effective on January 29, 1993, you are directed to amend the limits for the following categories, as provided under the terms of the current bilateral agreement between the Governments of the United States and the Federative Republic of Brazil:

Category	Adjusted twelve-month limit [1]
Sublevels in the aggregate	
350	134,949 dozen.
363	18,322,127 numbers.

[1] The limits have not been adjusted to account for any imports exported after March 31, 1992.

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,

J. Hayden Boyd,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 93–1996 Filed 1–26–93; 8:45 am]

BILLING CODE 3510–DR–F

Announcement of an Import Restraint Limit for Certain Cotton Textile Products Produced or Manufactured in El Salvador

January 22, 1993.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs establishing a limit for the new agreement year.

EFFECTIVE DATE: January 29, 1993.

FOR FURTHER INFORMATION CONTACT: Nicole Bivens Collinson, 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) 927–5850. 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 Governments of the United States and the Republic of El Salvador have agreed to establish a new Bilateral Textile Agreement, effected by exchange of notes dated October 29, 1992 and December 17, 1992 for cotton textile products in Categories 300/301, produced or manufactured in El Salvador and exported during the period beginning on January 1, 1993 and extending through December 31, 1993.

A copy of the current bilateral agreement is available from the Textiles Division, Bureau of Economic and Business Affairs, U.S. Department of State, (202) 647–3889.

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 57 FR 54976, published on November 23, 1992).

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.

J. Hayden Boyd,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

January 22, 1993.

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); pursuant to the Bilateral Textile Agreement, effected by exchange of notes dated October 29, 1992 and December 17, 1992 between the Governments of the United States and the Republic of El Salvador; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on January 29, 1993, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton textile products in Categories 300/301, produced or manufactured in El Salvador and exported during the twelve-month period beginning on January 1, 1993 and extending through December 31, 1993, in excess of 4,086,867 kilograms.

Imports charged to this category limit for the period January 1, 1992 through December 31, 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.

The limit set forth above is subject to adjustment in the future pursuant to the provisions of the current bilateral agreement between the Governments of the United States and the Republic of El Salvador.

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 this action falls within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

COMMODITY FUTURES TRADING COMMISSION

Exemption for Certain Contracts Involving Energy Products

AGENCY: Commodity Futures Trading Commission.

ACTION: Proposed order.

SUMMARY: In response to an application for exemptive relief, the Commodity Futures Trading Commission ("Commission") is proposing to issue an order to exempt from regulation under the Commodity Exchange Act, 7 U.S.C. 1 et seq. ("Act"), certain contracts for the deferred purchase or sale of energy products (as defined herein) that meet specified criteria. This exemptive order is being proposed pursuant to exemptive authority recently granted to the Commission in response to the recent enactment of the Futures Trading Practices Act of 1992 and is intended to provide greater legal certainty regarding trading in these products.

DATES: Written comments must be received by the Commission by the close of business on February 26, 1993.

ADDRESSES: Interested persons should submit their written views and comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, 2033 K Street NW., Washington, DC 20581. Reference should be made to rules to exempt certain energy contracts.

FOR FURTHER INFORMATION CONTACT: Joanne T. Medero, General Counsel or David R. Merrill, Deputy General Counsel, Office of the General Counsel, Telephone: (202) 254–9880 or Joseph B. Storer, Economist, Division of Economic Analysis, Telephone: (202) 254–7303, Commodity Futures Trading Commission, 2033 K Street NW., Washington, DC 20581.

SUPPLEMENTARY INFORMATION

I. Statutory Background

Section 2(a)(1)(A) of the Act grants the Commission exclusive jurisdiction over accounts, agreements (including any transaction which is of the character of * * * an "option"), and transactions involving contracts of sale of a commodity for future delivery traded or executed on a contract market or any other board of trade, exchange, or market, 7 U.S.C. 2. The CEA and Commission regulations require that transactions in commodity futures contracts and commodity option contracts, with narrowly defined exceptions, occur on or subject to the rules of contract markets designated by the Commission.[1]

On October 28, 1992, the Futures Trading Practices Act of 1992 ("1992 Act") was signed into law.[2] This legislation added new subsections (c) and (d) to Section 4 of the Act. New section 4(c)(1) authorizes the Commission, by rule, regulation, or order, to exempt any agreement, contract or transaction, or class thereof, from the exchange-trading requirements of section 4(a) or any other requirement of the Act other than section 2(a)(1)(B).[3] New section 4(c)(2) provides that the Commission may not grant an exemption from the exchange-trading requirement of the Act unless, *inter alia*, the agreement, contract or transaction will be entered into solely between "appropriate persons", a term defined in new section 4(c)(3).[4]

In granting exemptions, the Commission must also determine specifically that the exchange trading requirements of section 4(a) should not be applied, that the agreement, contract or transaction in question will not have a material adverse effect on the ability of the Commission or any contract market to discharge its regulatory or self-regulatory duties under the Act and that the exemption would be consistent with the public interest and the purposes of the Act.[5]

---

[1] Sections 4(a), 4c(b) and 4c(c) of the Act; 7 U.S.C. 6(a), 6c(b), 6c(c). Section 4(a) of the CEA specifically provides, inter alia, that it is unlawful to enter into a commodity futures contract that is not made on or subject to the rules of a board of trade which has been designated by the Commission as a "contract market" for such commodity. 7 U.S.C. 6(a). This prohibition does not apply to futures contracts made on or subject to the rules of a foreign board of trade, exchange or market. 7 U.S.C. 6(a).

[2] Public Law 102–564.

[3] Specifically, section 4(c)(1) (to be codified at 7 U.S.C. 6(c)(1)) provides:

In order to promote responsible economic or financial innovation and fair competition, the Commission by rule, regulation, or order, after notice and opportunity for hearing, may (on its own initiative or on application of any person, including any board of trade designated as a contract market for transactions for future delivery in any commodity under section 5 of this Act) exempt any agreement, contract, or transaction (or class thereof) that is otherwise subject to subsection (a) (including any person or class of persons offering, entering into, rendering advice or rendering other services with respect to, the agreement, contract, or transaction), either unconditionally or on stated terms or conditions or for stated periods and either retroactively or prospectively, or both, from any of the requirements of subsection (a), or from any other provision of this Act (except section 2(a)(1)(B)), if the Commission determines that the exemption would be consistent with the public interest.

[4] Section 4(c) to be codified at 7 U.S.C. 6(c)(3) provides that: the term "appropriate person" shall be limited to the following persons or classes thereof:

(A) A bank or trust company (acting in an individual or fiduciary capacity).

(B) A savings association.

(C) An insurance company.

(D) An investment company subject to regulation under the Investment Company Act of 1940 (15 U.S.C. 80a–1 et seq.).

(E) A commodity pool formed or operated by a person subject to regulation under this Act.

(F) A corporation, partnership, proprietorship, organization, trust, or other business entity with a net worth exceeding $1,000,000 or total assets exceeding $5,000,000 or the obligations of which under the agreement, contract or transaction are guaranteed or otherwise supported by a letter of credit or keepwell support, or other agreement by any such entity or by an entity referred to in subparagraph (A), (B), (C), (H), (I), or (K) of this paragraph.

(G) An employee benefit plan with assets exceeding $1,000,000 or whose investment decisions are made by a bank, trust company, insurance company, investment adviser registered under the Investment Advisers Act of 1940 (15 U.S.C. 80a–1 et seq.), or a commodity trading advisor subject to regulation under this Act.

(H) Any governmental entity (including the United States, any state, or any foreign government) or political subdivision thereof, or any multinational or supranational entity or any instrumentality, agency, or department of any of the foregoing.

(I) A broker-dealer subject to regulation under the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) acting on its own behalf or on behalf of another appropriate person.

(J) A futures commission merchant, floor broker, or floor trader subject to regulation under this Act acting on its own behalf or on behalf of another appropriate person.

[5] Specifically, section 4(c)(2) (to be codified at 7 U.S.C. 6(c)(2)) states:

The Commission shall not grant any exemption * * * from any of the requirements of subsection (a) unless the Commission determines that (A) the requirement should not be applied to the agreement, contract, or transaction for which the exemption is sought and that the exemption would be consistent with the public interest and the purposes of this Act; and (B) the agreement, contract, or transaction—

(i) will be entered into solely between appropriate persons; and

(ii) will not have a material adverse effect on the ability of the Commission or any contract market to discharge its regulatory or self-regulatory duties under this Act.

As is frequently the case when Congress grants a regulatory agency authority to act consistent with "the public interest and the purposes of" its enabling statute, little statutory elaboration is given to the full scope of the phrase. As commonly understood, however, an agency, such as the Commission, is to apply this standard against the template of its regulatory scheme. In this regard, the Conference Report states that the "public interest" under section 4(c) includes "the national public interests noted in the [Act], the prevention of fraud and the preservation of the financial integrity of markets, as well as the promotion of responsible economic or financial innovation and fair competition." H.R. Rep. No. 978, 102d Cong., 2d Sess. 78. The Conference Report goes on to state that "[t]he Conferees intend for this reference to the 'purposes of the Act' to underscore their expectation that the Commission will assess the impact of a proposed exemption on the maintenance of the integrity and soundness of markets and market participants." H.R. Rep. No. 978, 102d Cong., 2d Sess. 78. However, the Conference Report on the 1992 Act also states that:

The Conferees do not intend for this provision to allow an exchange or any other existing market to oppose the exemption of a new product solely on

II. The Application For Exemptive Relief

On November 16, 1992, the Commission received an application for exemptive relief ("application"), submitted pursuant to section 4(c) of the Act, on behalf of entities engaged in commercial businesses related to crude oil, natural gas and other energy-related commodities derived therefrom with respect to the purchase and sale of these commodities through contracts that satisfy certain, specified criteria.[6] The particular entities filing the application (collectively referred to herein as, the "Energy Group") represent that each is a producer, processor and/or merchandiser of crude oil, natural gas and/or other crude oil or natural gas products, or is otherwise engaged in a commercial business in such commodities.[7]

The application states that the requested exemption, described therein, would:

> Preclude participation * * * by members of the general public and * * * limit the * * * [relief] to those appropriate persons who, in the context of their business activities, incur risks related to the underlying physical commodities. In addition, the exemption will require that each * * * Contract [covered by the relief would] impose binding delivery obligations on the parties (with the exception of those covered by the proviso, as discussed below) and that it not provide either party with the unilateral right to require its counterparty to offset the contract by cash settlement. The Contracts will therefore expose the parties to substantial economic risk of a commercial nature. Further, the Contracts will be entered into between two parties each of which acts as principal, and the material economic terms, including credit terms of the transaction will be subject to individual negotiation between the parties.

November 16 application, p.4.

It further noted that the requested exemption would:

> Make it clear that [the] * * * Contracts which satisfy the criteria * * * [of the exemption], regardless of the energy-related commodity market in which they are entered into, are excluded from the Act. This will allow commercial entities to conduct their necessary business activities in the domestic and foreign oil and gas markets, as well as the markets for other energy-related commodities (including products and by products of oil and gas), with the requisite degree of legal certainty and comfort.
>
> Second, the exemption focuses on the commercial nature of the parties and the fact that the * * * Contracts impose binding delivery obligations, thereby establishing a "bright line" test. The exemption recognizes that, regardless of the purposes for which the parties enter into a * * * Contract, they may be required by their counterparty to make or receive delivery pursuant to the terms of the Contract. This will permit commercial entities to enter into * * * Contracts for hedging, risk management, pricing or other commercial purposes, provided that the terms of the agreements impose binding delivery obligations, the parties are legally permitted to make and receive delivery and are capable of doing so. In this respect as well, the exemption will facilitate the use of * * * Contracts for legitimate and necessary business purposes.
>
> Third, the exemption recognizes the ability of commercial entities to settle * * * Contracts through the full range of commercially available forms of settlement, either in accordance with the terms of the Contracts, or, if another form of settlement is desired, with counterparty consent.

Id. at 5.

The application also discussed the public interest to be served by the Commission's issuance of an order granting this request for an exemption. In this regard, the application reasons that:

> The exemption proposed herein is in the public interest, is consistent with the purpose of the Act and satisfies the criteria established under section 4(c) * * * In the present instance, the proposed exemption will have no adverse effect on "the prevention of fraud" or the protection of the public. Those entities which satisfy * * * the proposed exemption are sufficiently sophisticated and knowledgeable to protect their own interest in connection with * * * Contracts, regardless of whether the regulatory protections afforded under the Act are available * * *
>
> [T]he exemptive relief requested herein is necessary in order to permit commercial commodity markets to function effectively and to accomplish these objectives. Such relief will provide commercial entities with the level of certainty and clarity required in order to enable them to conduct their business activities, which will clearly advance the public interest * * *
>
> In addition, the financial integrity of the markets for such * * * Contracts will be adequately addressed by the limitation of appropriate persons and the measures adopted by each market participant to limit its credit exposure.
>
> Moreover, due to the individualization of * * * Contracts, and the customization of their terms to meet the specific needs of the counterparties, such Contracts lack the degree of standardization and fungibility required in order to permit them to be traded on an exchange. The application of the exchange trading requirement to such contracts, therefore, is not only unnecessary for the protection of the public and the advancement of the purposes of the Act, but would in fact be detrimental to the functioning of commercial markets and the realization of the public interests identified by Congress.

application, pp. 12–13.

Based on representations contained in the November 16 letter as to the matters for which relief is requested, the Commission is considering granting an Order of Exemptive Relief as set forth below.

III. The Proposed Order

The proposed exemption would apply to contracts for the purchase and sale of crude oil, natural gas, natural gas liquids or other energy products, including products derived from crude oil, natural gas or natural gas liquids, and used primarily as an energy source (an "Energy Contract"),[8] which are executory on, or which are entered into, on or after the date of publication in the **Federal Register** of a final exemptive order with respect to the application, and which:

(1) Are entered into by and between commercial participants who, in connection with their business activities, incur risks related to the underlying physical commodities, have the capacity to make or take delivery under the terms of the contracts, and are also eligible "appropriate persons";

(2) Are bilateral contracts between two parties acting as principals, the material economic terms of which are subject to individual negotiation by the parties; and

(3) Impose binding obligations on the parties to make and receive delivery of the underlying commodity or commodities, with no right of either party to effect a cash settlement of their obligations without the consent of the other party, *provided, however,* that the parties may enter into a subsequent book out contract which provides for settlement of the obligation in a manner

---

grounds that it may compete with or draw market share away from the existing market.

H.R. Rep. No. 978, 102d Cong., 2d Sess. 79 (1992).

[6] A copy of the application is available from the Secretary of the Commission.

[7] The submission represents that each of the members of the Energy Group is an active participant in the principal domestic and international markets for crude oil and/or natural gas and the products and by-products thereof, which regularly engages in the purchase of such commodities for use in its business operations, the sale of such commodities for use by end-users and the transport of such commodities through pipeline, vessel or truck deliveries.

[8] The Commission has described the operation of one such market in a particular energy commodity, the Brent crude oil market, in greater detail in its Statutory Interpretation Concerning Forward Contracts, 55 FR 39188 (Sept. 25, 1990). In addition, the Commission, in connection with contract market designations for light sweet crude oil, sour crude oil, residual fuel oil, heating oil, gasoline and natural gas, has described in detail the cash markets for these energy commodities. (See memoranda from the Division of Economic Analysis to the Commission dated June 19 and August 12, 1981, for heating oil and gasoline, August 14, 1989, for residual fuel oil, February 13, 1990, for natural gas and December 6, 1991, for sour crude oil). The cash markets for these energy commodities share a number of common characteristics with the Brent cash and forward markets.

other than by physical delivery of the commodity specified in the contract.[9]

The exemption proposed to be granted would limit participation in Energy Contracts to those commercial participants who are eligible appropriate persons.[10] The Commission is proposing to limit the class of appropriate persons eligible to enter into Energy Contracts pursuant to the proposed exemption to the following entities: (1) A bank or trust company (acting in an individual or fiduciary capacity) which is legally permitted and otherwise authorized to engage in such transactions; (2) a corporation, partnership, proprietorship, organization, trust, or other business entity with a net worth exceeding $1,000,000 or total assets exceeding $5,000,000, or the obligations of which under the agreement, contract or transaction are guaranteed or otherwise supported by a letter of credit or keepwell support, or other agreement by any such entity or by an entity referred to in subsections (H), (I) or (J) of section 4(c)(3); (3) any governmental entity (including the United States, any state, or any foreign government) or political subdivision thereof, or any multinational or supranational entity or any instrumentality, agency, or department of any of the foregoing; (4) a broker-dealer subject to regulation under the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) acting on its own behalf or on behalf of another appropriate person (as set forth herein); and (5) a futures commission merchant subject to regulation under the Act acting on its own behalf or on behalf of another appropriate person (as set forth herein). Furthermore, the proposed exemption would limit participation in the Energy Contracts to those eligible persons who, in connection with their business activities, incur risks, in addition to price risk, related to the underlying physical commodities and have the capacity to make or take delivery under the terms of the contracts. Such capacity entails the ability to produce, refine, store, transport or otherwise tangibly control the physical commodity. In entering into an Energy Contract, a person would need to have a reasonable basis to believe that its counterparty is an appropriate person at the time of entering into the Energy Contract.

In addition, the exemption would require that each Energy Contract, by its terms, impose binding delivery obligations on the parties and that it not provide either party with the unilateral right to require its counterparty to offset the contract or to discharge its obligation under the contract by a cash payment. Thus, the exemption proposed to be granted would provide relief for transactions which expose the counterparties to the substantial economic risk of any commercial cash market transaction in which delivery of the product is required pursuant to the terms of the contract. Further, the relief would be limited to contracts entered into between two parties, each of which acts as principal,[11] and the material economic terms of which (including, without limitation, price, quantity, quality, location and credit terms) would be subject to individual negotiation between the parties.[12]

The proposed relief would recognize the ability of commercial entities to satisfy or otherwise settle their obligations under an Energy Contract through several types of commercially acceptable arrangements, including the seller's passage of title and the purchaser's payment and acceptance of the commodity underlying the contract.[13] Passage of title and acceptance of the commodity would constitute performance regardless of whether the buyer lifts or otherwise takes delivery of the cargo or receives pipeline delivery, or as part of a subsequent separate contract, passes title to another intermediate purchaser in a "chain", "string" or "circle" within a "chain".

The physical delivery obligation specified in an Energy Contract entered into between two parties could also be satisfied through various other arrangements between the parties. For example, in the case of crude oil and crude oil products, the physical delivery obligation could be satisfied by exchanging one quality, grade or product type for another quality, grade or product type. Such transactions are referred to in the industry as "grade and/or quality swaps" or "exchanges". In addition, the obligation could be satisfied by location swaps.

In addition, two parties to an Energy Contract would be permitted to enter into a bilateral "netting" or other similar agreement, subsequent to the execution of an Energy Contract. Under such an agreement, the two parties agree to "net" or "book out" the obligations imposed under two or more Energy Contracts which provide for delivery of the same commodity at the same delivery location and during the same delivery period and thus cancel each other. Such a netting agreement can be entered into at the time that the canceling Energy Contract is originated, or subsequently, through a different agreement, at a time prior to when performance on the contracts otherwise would be due.[14]

The proposed exemption would allow such netting agreements whereby the parties to the original contract could enter into a subsequent agreement ("second contract") which provides for settlement in a manner other than by physical delivery. The second contract could not, under the exemption, stand alone as an independent transaction; it would be required to be incidental to a pre-existing, *bona fide* Energy Contract. Moreover, the establishment of the second contract could not be made a pre-condition of the initial Energy Contract; *e.g.*, one party could not require its counterparty to agree in advance to the establishment of the second contract as a condition of acceptance of the initial Energy Contract. Accordingly, the second contract would be required to be a separately negotiated agreement and, if the counterparty subsequently did not

[9] The terms "book out" (crude oil) and "book transfer" (petroleum products) are cash market terms that generally refer to the cancellation or netting of physical delivery obligations between parties, the primary purposes of which is to prevent or minimize the uneconomic movement of the physical commodity.

[10] As was more fully discussed above, section 4(c)(2) of the Act provides that agreements, contracts, or transactions exempted from the Act must be entered into solely between "appropriate persons," and section 4(c)(3) enumerates those persons or classes thereof that are deemed to constitute such "appropriate persons."

[11] The Commission does not intend that the proposed condition that an Energy Contract be a principal-to-principal transaction preclude the use of brokers or other agents in connection with the negotiation of, or the performance or settlement of the obligations under, a contract, as is discussed more fully below.

[12] The Commission does not intend to preclude the parties to an Energy Contract from establishing bilateral collateral or other credit protection arrangements, such as a letter of credit or other documentation of funds availability, to address credit issues.

[13] Cash market transactions of crude oil, petroleum products, natural gas and natural gas liquids, as well as other energy related commodities in which physical delivery is made, are effected through payment by the buyer and transfer of title of ownership by the seller to the buyer.

[14] Rather than agreeing to net particular canceling Energy Contracts, two frequent counterparties, for purposes of ease of administration, may use a "master," or other form of bilateral agreement to achieve the same result. This master agreement, established prior to entry into the Energy Contracts, provides that the two counterparties agree to net Energy Contracts of the same commodity at the same location and during the same delivery period. This agreement replaces the practice that counterparties agree to net particular canceling Energy Contracts, either at the time the second contract is entered into, or by a separate, subsequent agreement, with the understanding that all contracts between them which cancel each other will be netted, unless they have agreed not to apply the prior netting agreement at the time of entry into an Energy Contract.

agree to the second contract, the parties would remain obligated in accordance with the binding delivery requirements imposed under the initial Energy Contract.

Commercial entities also may satisfy their obligations under an Energy Contract through a subsequent, separate agreement, with counterparty consent, when three or more parties, upon finding that they formed a "chain", or a "string" or "circle" within a "chain", agree prior to delivery to "book out" and satisfy their obligations through separately negotiated cash payments or other mutually acceptable terms. This type of arrangement would be covered under the exemption even if the title does not, or is not deemed to, pass.[15]

Such arrangements are common in the energy cash market.[16] They are standard commercial practice to avoid and/or minimize transaction costs, non-economic payments and product movements, and for reducing the number of transactions necessary to perform all obligations between parties pursuant to the contracts which are "booked out."

In order to provide clarity and legal certainty concerning contracts involving energy products,[17] the Commission is hereby proposing to issue an order pursuant to section 4(c) of the Act generally to exempt from most provisions of the Act those activities between eligible parties involving Energy Contracts, as described above.[18] As is noted above, section 4(c) does not permit the Commission to grant exemptions from section 2(a)(1)(B) of the Act.[19] Finally the submitters of the application do not seek, nor is the Commission proposing, an exemption from sections 6(c), 6(d), and 9(a)(2) of the Act to the extent these sections apply to a manipulation or attempted manipulation of the price of any commodity in interstate commerce, or for future delivery on or subject to the rules of any contract market.

IV. Particular Issues for Comment

As is also noted above, the Commission, pursuant to section 4(c) of the Act, is authorized to "exempt any agreement, contract, or transaction (or class thereof) that is otherwise subject to subsection (a) (section 4(a) of the Act) (including any person or class of persons offering, entering into, rendering advice or rendering other services with respect to, the agreement, contract, or transaction)" from the prohibition on off-exchange futures trading set forth in section 4(a) or from any other provision of the Act, "if the Commission determines that the exemption would be consistent with the public interest." In addition, in granting any exemption under section 4(c) from any of the requirements of section 4(a), the Commission must determine that certain exchange trading requirements under section 4(a) of the Act should not be applied to the agreement, contract or transaction, that the exemption would be consistent with the public interest and the purposes of the Act, that the agreement, contract or transaction will be entered into solely between "appropriate persons" (as defined in section 4(c)(3)) and that the exemption "will not have a material adverse effect on the ability of the Commission or any contract market or discharge in regulatory or self-regulatory duties under this Act."[20] While the application for exemption identifies certain potential bases for making these determinations, the Commission is specifically interested in receiving written comments addressing these issues.

In addition to seeking comment on the above, the Commission is also seeking other written comments relevant to the application for exemptive relief, its proposed order, and the following specific issues:

(1) The list of eligible "appropriate persons" that would be permitted, if other qualifications are met, to engage in Energy Contracts is set forth above. In light of the fact that the proposed exemption is applicable only to commercial participants who, in connection with their business activities, incur risks related to the underlying physical commodities, is this list, which does not include all categories of "appropriate persons" set forth in section 4(c)(2) of the Act, properly delineated or should it be supplemented or reduced? In particular, should floor brokers or floor traders as described in section 4(c)(2)(J) of the Act be included? To what extent do broker-dealers and futures commission merchants participate in these markets, either acting on their own behalf or on behalf of other appropriate persons? Should commodity pools be includes as "appropriate person" category and if so, should minimum net worth or other criteria be applied? Are the net worth and total asset criteria applicable to corporations, partnerships, proprietorships, organizations, trust, and other business entities as described above set at appropriate levels?

(2) Energy Contracts as described above involve the purchase or sale of crude oil, natural gas, natural gas liquids, or other energy products, including products derived from crude oil, natural gas or natural gas liquids, used primarily as an energy source. Does this adequately describe the energy-related products to which the cash market practices described in this release apply?

(3) Describe the multilateral and/or bilateral payments and obligation netting arrangements currently in use in the energy cash market. What limitations, if any, should the Commission impose on their use?

(4) Does the use of brokers by and between parties to Energy Contracts, as set forth above, accurately reflect current cash market practice?

(5) Is there additional information about the cash markets in crude oil, natural gas and other energy products that may be relevant to the Commission's consideration of the application?

(6) In light of these current cash market practices, what effect on contract markets could be anticipated by granting the exemption, in particular with regard to the

---

[15] The requirement that Energy Contracts be bilateral and subject to individual negotiation is intended to assure that the transactions would not be subject to a clearing system where the credit risk of individual participants of the system to each other, with respect to a transaction to which each is a counterparty, would effectively be eliminated and replaced by a universal or substituted counterparty or other system of mutualized risk of loss that binds members generally whether or not they are counterparties to the original transaction.

[16] *See* n. 8, *supra*. The use of brokers, agents or a third-party to identify the existence of a "chain" or to facilitate the "book out" of transactions forming a "chain" would not be deemed to constitute a clearing system. The Commission has been advised that there are a number of third-party brokers and agents who provide this service in the energy cash market.

[17] In granting exemptive authority to the Commission under new section 4(c), the Conferees on the 1992 Act

recognize[d] the need to create legal certainty for a number of existing categories of instruments which trade today outside the forum of a designated contract market.

These instruments may contain some features similar to those of regulated exchange-traded products but are sufficiently different in their purpose, function, design, or other characteristics that, as a matter of policy, traditional futures regulation and the limitation of trading to the floor of an exchange may be unnecessary to protect the public interest and may create an inappropriate burden on commerce.

H.R. Rep. No. 978, 102 Cong., 2d Sess. 80 (1992).

[18] In proposing this order, the Commission does not intend to determine whether Energy Contracts are subject to the Act. Moreover, the exemption does not affect the applicability to Energy Contracts of exemptions or interpretations previously issued by the Commission or its staff, including the Statutory Interpretation Concerning Forward Transactions, 55 FR 39188 (Sept. 25, 1990) or the forward contract exclusion set forth in Section 2(a)(1) of the Act (the Act does not apply to "any sale of any cash commodity for deferred shipment or delivery").

[19] The Commission's proposal, if adopted, would not affect the applicability or protections of state law (other than gaming or "bucket shop" laws), or antifraud statutes of general applicability, to the exempted Energy Contracts or any other protections provided by other applicable federal laws. Congress specifically noted that, in exempting an instrument from the Act, the Commission cannot exempt it from applicable securities and banking laws and regulations. H.R. Rep. No. 978, 102d Cong., 2d Sess. 83 (1992).

[20] The Conference Report on the 1992 Act provides the Commission with additional guidance in making its determinations in this regard. H. Rep. No. 978, 102d Cong., 2d. Sess. 78–81 (1992).

maintenance of the integrity and soundness of the markets?

(7) Should Energy Contracts as described in the release be exempt from section 4b of the Act?

Issued in Washington, DC, on January 21, 1993, by the Commission.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 93–1879 Filed 1–26–93; 8:45 am]

BILLING CODE 6351–01–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Civilian Health and Medical Program of the Uniformed Services (CHAMPUS)

AGENCY: Office of the Secretary, DoD.

ACTION: Notice of revised rates.

SUMMARY: This notice provides the updated adjusted standardized amounts, DRG relative weights, outlier thresholds, and beneficiary cost-share per diem rates to be used for FY 1993 under the CHAMPUS DRG-based payment system. It also describes the non-regulatory changes made to the CHAMPUS DRG-based payment system in order to conform to changes made to the Medicare Prospective Payment System (PPS).

EFFECTIVE DATE: The rates and weights contained in this notice are effective for admissions occurring on or after October 1, 1992.

ADDRESSES: Office of the Civilian Health and Medical Program of the Uniformed Services (OCHAMPUS), Program Development Branch, Aurora, CO 80045–6900.

For copies of the Federal Register containing this notice, contact the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, (202) 783–3238. The charge for the Federal Register is $4.50 for each issue payable by check or money order to the Superintendent of Documents.

FOR FURTHER INFORMATION CONTACT: Stephen E. Isaacson Program Development Branch, OCHAMPUS, telephone (303) 361–1172.

To obtain copies of this document, see the "ADDRESSES" section above. Questions regarding payment of specific claims under the CHAMPUS DRG-based payment system should be addressed to the appropriate CHAMPUS contractor.

SUPPLEMENTARY INFORMATION: The final rule published on September 1, 1987, (52 FR 32992) set forth the basic procedures used under the CHAMPUS DRG-based payment system. This was subsequently amended by final rules published on August 31, 1988 (53 FR 33461), October 21, 1988 (53 FR 41331), December 16, 1988 (53 FR 50515), May 30, 1990 (55 FR 21863), and October 22, 1990 (55 FR 42560).

An explicit tenet of these final rules, and one based on the statute authorizing use of DRGs by CHAMPUS, is that the CHAMPUS DRG-based payment system is modeled on the Medicare PPS, and that, whenever practicable, the CHAMPUS system will follow the same rules that apply to the Medicare PPS.

We are not initiating any changes to the CHAMPUS DRG-based payment system, but this notice describes certain changes effective for the sixth year of its operation which are necessary in order to conform to changes to the Medicare PPS. These changes were published as a proposed rule on June 4, 1992 (57 FR 23618), and the final rule was published on September 1, 1992 (57 FR 39746). We refer the reader to these rules for detailed discussions of the changes. In addition, this notice updates the rates and weights in accordance with our previous final rules. The actual changes we are making, along with a description of their relationship to the Medicare PPS, are detailed below.

I. Medicare PPS Changes Which Affect the CHAMPUS DRG-Based Payment System

Following is a discussion of the changes the Health Care Financing Administration (HCFA) has made to the Medicare PPS which affect the CHAMPUS-DRG-based payment system.

A. DRG Classification

Under both the Medicare PPS and the CHAMPUS DRG-based payment system, cases are classified into the appropriate DRG by a Grouper program. The Grouper classifies each case into a DRG on the basis of the diagnosis and procedure codes and demographic information (that is, sex, age, and discharge status). The Grouper used for the CHAMPUS DRG-based payment system is the same as the current Medicare Grouper with two modifications. The CHAMPUS system has replaced Medicare DRG 435 with two age-based DRGs (900 and 901), and we have implemented thirty-four (34) neonatal DRGs in place of Medicare DRGs 385 through 390. Grouping for all other DRGs under the CHAMPUS system is identical to the Medicare PPS.

For FY 1993 HCFA will implement a number of classification changes, including surgical hierarchy changes, refinements to the complications and comorbidities list, and coding changes in the Grouper. The CHAMPUS Grouper will duplicate all changes made to the Medicare Grouper.

B. Wage Index

The CHAMPUS DRG-based payment system will continue to use the same wage index amounts used for the Medicare PPS. This includes all updates to the wage indexes which are effective on or after October 1, 1992, as well as any delays in implementing those updates. Since we use the wage index amounts calculated by HCFA, any changes which are phased in over several years for the Medicare PPS also will be phased in for CHAMPUS. In addition, we duplicate all changes with regard to the wage index for specific hospitals which are redesignated by the Medicare Geographic Classification Review Board.

C. Hospital Market Basket

We will update the adjusted standardized amounts according to the final updated hospital market basket used for the Medicare PPS. According to HCFA's September 1 final rule, the projected market basket is 4.1 percent: To be reduced by 1.55 percentage points for urban areas and 0.55 percentage points for rural areas.

D. Payment for Blood Clotting Factor

The Health Care Financing Administration agreed with the Prospective Payment Commission's recommendation that the special add-on payments for hemophilia blood clotting factor not be reinstated. Accordingly, for admissions occurring on or after October 1, 1992, CHAMPUS will no longer make additional payments for these factors.

E. Percentage Reduction for Capital Payments

In the past we have reduced payments for capital expenses based on the percentage reduction used for the Medicare PPS. This percentage has not been as straightforward since Medicare began their transition to DRG-based capital payments. However, we believe the budget neutrality target of a ten percent reduction which is being used under the Medicare PPS for FY 1993 provides a reasonable amount for CHAMPUS to use. Therefore, although we are not adopting the Medicare PPS methodology for payment of capital expenses at this time, we will reduce capital payments by ten percent effective for inpatient days occurring on or after October 1, 1992.

II. Medicare Changes Which Are Not Being Adopted by CHAMPUS

The Health Care Financing Administration is implementing a number of changes related to outlier payments. In addition to the routine changes to the outlier thresholds, the arithmetic mean length-of-stay rather than the geometric mean is to be used to calculate the day outlier per diem, and the marginal payment factor for day outliers is reduced from 60 percent to 55 percent.

Our regulation specifically provides that the geometric mean length-of-stay will be used to calculate both long-stay and short-stay outlier per diems. President Bush imposed a moratorium on regulation changes in his January 28, 1992, memorandum on reducing the burden of government regulations. Therefore, until that moratorium expires we cannot change our regulation to allow use of the arithmetic mean instead of the geometric mean. Since all the outlier changes implemented by HCFA are interrelated, we have elected not to make any outlier changes at this time. It is our intention to change our regulation at the earliest possible opportunity to permit these changes, and at that time we will adopt all the Medicare PPS outlier changes.

III. Other Related Information

For FY 1993 there is no change to the cost-to-charge ratio used for the CHAMPUS DRG-based payment system. Except for determining cost outlier payments for children's hospitals, the current ratio used is 0.63 which is increased to 0.64 to account for bad debts. For children's hospital cost outliers, the cost-to-charge ratio used is 0.70.

IV. Updated Rates and Weights

The tables provide the rates and weights to be used under the CHAMPUS DRG-based payment system during FY 1993 and which are a result of the changes described above. The implementing regulations for the CHAMPUS DRG-based payment system are in 32 CFR part 199.

Dated: January 21, 1993.

L.M. Bynum,

Alternate OSD Federal Register, Liaison Officer, Department of Defense.

Editorial Note—This table will not appear in the Code of Federal Regulations.

Table 1—National Urban and Rural Adjusted Standardized Amounts, Labor/Nonlabor, and Cost-Share Per Diem

The following summary provides the adjusted standardized amount and the cost-share per diem for beneficiaries other than dependents of active-duty members.

The adjusted standardized amounts are effective for admissions occurring on or after October 1, 1992.

National Large Urban Adjusted Standardized Amount	$3,324.87
Labor portion	2,354.87
Nonlabor portion	970.20
National Other Urban Adjusted Standardized Amount	3,220.31
Labor portion	2,280.62
Nonlabor portion	939.69
National Rural Adjusted Standardized Amount	3,208.31
Labor portion	2,426.45
Nonlabor portion	781.86

The cost-share per diem is effective for inpatient days of care occurring on or after October 1, 1992.

Cost-share per diem for beneficiaries other than dependents of active-duty members	$265.00

BILLING CODE 3810-01-M

CHAMPUS WEIGHT AND THRESHOLD SUMMARY

DRG NUMBER	DESCRIPTION	CHAMPUS WEIGHT	ARITHMETIC MEAN LOS	GEOMETRIC MEAN LOS	SHORT STAY THRESHOLD	LONG STAY THRESHOLD	
1	CRANIOTOMY AGE >17 EXCEPT FOR TRAUMA	3.9996	11.8	8.5	1	40	25
2	CRANIOTOMY FOR TRAUMA AGE >17	4.1498	12.7	8.3	1	40	25
3	CRANIOTOMY AGE 0-17	2.7901	8.7	5.4	1	37	22
4	SPINAL PROCEDURES	2.1195	7.7	5.7	1	37	22
5	EXTRACRANIAL VASCULAR PROCEDURES	1.7182	4.9	4.0	1	23	12
6	CARPAL TUNNEL RELEASE	0.6620	2.8	1.9	1	23	9
7	PERIPH & CRANIAL NERVE & OTHER NERV SYST PROC W CC	2.6858	11.0	6.4	1	38	23
8	PERIPH & CRANIAL NERVE & OTHER NERV SYST PROC W/O CC	1.0364	3.3	2.5	1	22	10
9	SPINAL DISORDERS & INJURIES	1.7521	9.5	6.6	1	38	23
10	NERVOUS SYSTEM NEOPLASMS W CC	1.7034	9.9	6.4	1	38	23
11	NERVOUS SYSTEM NEOPLASMS W/O CC	0.9906	6.4	3.6	1	35	20
12	DEGENERATIVE NERVOUS SYSTEM DISORDERS	2.0919	12.2	6.9	1	38	23
13	MULTIPLE SCLEROSIS & CEREBELLAR ATAXIA	0.8963	6.6	5.3	1	37	20
14	SPECIFIC CEREBROVASCULAR DISORDERS EXCEPT TIA	1.4548	7.9	5.5	1	37	22
15	TRANSIENT ISCHEMIC ATTACK & PRECEREBRAL OCCLUSIONS	0.7996	4.0	3.1	1	27	12
16	NONSPECIFIC CEREBROVASCULAR DISORDERS W CC	1.6417	7.2	4.9	1	36	21
17	NONSPECIFIC CEREBROVASCULAR DISORDERS W/O CC	0.9793	5.3	3.9	1	35	19
18	CRANIAL & PERIPHERAL NERVE DISORDERS W CC	0.9987	6.0	4.4	1	36	19
19	CRANIAL & PERIPHERAL NERVE DISORDERS W/O CC	0.7346	4.8	3.3	1	35	17
20	NERVOUS SYSTEM INFECTION EXCEPT VIRAL MENINGITIS	2.2381	10.1	7.2	1	39	24
21	VIRAL MENINGITIS	0.5973	3.9	3.3	1	20	10
22	HYPERTENSIVE ENCEPHALOPATHY	0.7770	3.9	3.1	1	22	11
23	NONTRAUMATIC STUPOR & COMA	0.7266	4.3	2.3	1	34	13
24	SEIZURE & HEADACHE AGE >17 W CC	0.9070	5.0	3.7	1	35	16
25	SEIZURE & HEADACHE AGE >17 W/O CC	0.5678	3.6	2.7	1	23	11
26	SEIZURE & HEADACHE AGE 0-17	0.5310	3.1	2.4	1	18	8
27	TRAUMATIC STUPOR & COMA, COMA >1 HR	2.2393	7.2	3.8	1	35	20
28	TRAUMATIC STUPOR & COMA, COMA <1 HR AGE >17 W CC	1.3970	6.8	3.5	1	35	20
29	TRAUMATIC STUPOR & COMA, COMA <1 HR AGE >17 W/O CC	0.9198	4.9	3.1	1	35	18
30	TRAUMATIC STUPOR & COMA, COMA <1 HR AGE 0-17	0.6576	3.2	2.1	1	24	10
31	CONCUSSION AGE >17 W CC	0.6923	3.7	2.6	1	34	13
32	CONCUSSION AGE >17 W/O CC	0.4658	2.3	1.6	1	13	6
33	CONCUSSION AGE 0-17	0.3132	1.5	1.3	1	4	2
34	OTHER DISORDERS OF NERVOUS SYSTEM W CC	1.4664	7.4	4.4	1	36	21
35	OTHER DISORDERS OF NERVOUS SYSTEM W/O CC	0.8846	5.4	2.9	1	34	19
36	RETINAL PROCEDURES	0.7563	1.9	1.6	1	7	4
37	ORBITAL PROCEDURES	0.9878	3.7	2.7	1	29	12
38	PRIMARY IRIS PROCEDURES	0.3584*	2.8	2.1	1	16	16
39	LENS PROCEDURES WITH OR WITHOUT VITRECTOMY	0.6371	1.7	1.4	1	7	4
40	EXTRAOCULAR PROCEDURES EXCEPT ORBIT AGE >17	0.7758	3.9	2.3	1	34	14
41	EXTRAOCULAR PROCEDURES EXCEPT ORBIT AGE 0-17	0.4442	1.5	1.3	1	5	3
42	INTRAOCULAR PROCEDURES EXCEPT RETINA, IRIS & LENS	0.8228	2.6	1.9	1	15	7
43	HYPHEMA	0.2782	3.6	3.1	1	16	9
44	ACUTE MAJOR EYE INFECTIONS	0.5096	4.0	3.4	1	19	10
45	NEUROLOGICAL EYE DISORDERS	0.6023	3.2	2.5	1	19	9
46	OTHER DISORDERS OF THE EYE AGE >17 W CC	1.0115	5.0	3.9	1	35	17
47	OTHER DISORDERS OF THE EYE AGE >17 W/O CC	0.4947	3.0	2.3	1	21	9
48	OTHER DISORDERS OF THE EYE AGE 0-17	0.5759	4.0	2.9	1	28	12
49	MAJOR HEAD & NECK PROCEDURES	2.4159	4.7	3.4	1	35	16
50	SIALOADENECTOMY	0.7252	1.7	1.5	1	5	3

CHAMPUS WEIGHT AND THRESHOLD SUMMARY

DRG NUMBER	DESCRIPTION	CHAMPUS WEIGHT	ARITHMETIC MEAN LOS	GEOMETRIC MEAN LOS	SHORT STAY THRESHOLD	LONG STAY THRESHOLD	
51	SALIVARY GLAND PROCEDURES EXCEPT SIALOADENECTOMY	0.6278*	2.9	2.1	1	19	19
52	CLEFT LIP & PALATE REPAIR	0.7215	2.0	1.7	1	9	5
53	SINUS & MASTOID PROCEDURES AGE >17	0.8555	2.3	1.7	1	13	6
54	SINUS & MASTOID PROCEDURES AGE 0-17	0.8426	2.4	1.7	1	16	7
55	MISCELLANEOUS EAR, NOSE, MOUTH & THROAT PROCEDURES	0.6944	1.9	1.5	1	9	5
56	RHINOPLASTY	0.7195	1.6	1.3	1	6	3
57	T&A PROC, EXCEPT TONSILLECTOMY &/OR ADENOIDECTOMY ONLY, AGE >17	0.5300	2.4	2.1	1	11	6
58	T&A PROC, EXCEPT TONSILLECTOMY &/OR ADENOIDECTOMY ONLY, AGE 0-17	0.5280	1.9	1.5	1	9	4
59	TONSILLECTOMY &/OR ADENOIDECTOMY ONLY, AGE >17	0.4023	1.4	1.3	1	4	2
60	TONSILLECTOMY &/OR ADENOIDECTOMY ONLY, AGE 0-17	0.3633	1.4	1.2	1	4	2
61	MYRINGOTOMY W TUBE INSERTION AGE >17	0.8658	2.3	1.6	1	16	7
62	MYRINGOTOMY W TUBE INSERTION AGE 0-17	0.7610	3.0	2.2	1	21	9
63	OTHER EAR, NOSE, MOUTH & THROAT O.R. PROCEDURES	1.1811	2.9	2.3	1	15	7
64	EAR, NOSE, MOUTH & THROAT MALIGNANCY	1.3267	9.6	6.0	1	38	23
65	DYSEQUILIBRIUM	0.4927	2.9	2.3	1	14	7
66	EPISTAXIS	0.4783	3.3	2.9	1	15	8
67	EPIGLOTTITIS	0.6072	3.5	3.1	1	13	7
68	OTITIS MEDIA & URI AGE >17 W CC	0.7437	4.3	3.6	1	22	11
69	OTITIS MEDIA & URI AGE >17 W/O CC	0.4888	3.2	2.6	1	17	8
70	OTITIS MEDIA & URI AGE 0-17	0.4180	3.0	2.6	1	14	7
71	LARYNGOTRACHEITIS	0.3227	2.3	1.9	1	10	5
72	NASAL TRAUMA & DEFORMITY	0.3927	1.6	1.4	1	5	3
73	OTHER EAR, NOSE, MOUTH & THROAT DIAGNOSES AGE >17	0.7044	3.6	2.6	1	24	11
74	OTHER EAR, NOSE, MOUTH & THROAT DIAGNOSES AGE 0-17	0.4204	2.7	2.1	1	15	7
75	MAJOR CHEST PROCEDURES	3.2508	10.6	8.6	1	40	25
76	OTHER RESP SYSTEM O.R. PROCEDURES W CC	2.5487	10.1	7.3	1	39	24
77	OTHER RESP SYSTEM O.R. PROCEDURES W/O CC	1.3651	5.7	3.7	1	35	20
78	PULMONARY EMBOLISM	1.5664	8.1	6.9	1	38	22
79	RESPIRATORY INFECTIONS & INFLAMMATIONS AGE >17 W CC	2.3047	10.5	8.1	1	40	25
80	RESPIRATORY INFECTIONS & INFLAMMATIONS AGE >17 W/O CC	1.2299	6.1	4.9	1	35	17
81	RESPIRATORY INFECTIONS & INFLAMMATIONS AGE 0-17	1.0586	5.5	4.4	1	36	17
82	RESPIRATORY NEOPLASMS	1.5175	7.2	4.8	1	36	21
83	MAJOR CHEST TRAUMA W CC	1.1856	7.3	4.8	1	36	21
84	MAJOR CHEST TRAUMA W/O CC	0.5670	2.6	2.1	1	13	6
85	PLEURAL EFFUSION W CC	1.5155	7.6	5.4	1	37	22
86	PLEURAL EFFUSION W/O CC	0.9053	4.8	3.3	1	35	18
87	PULMONARY EDEMA & RESPIRATORY FAILURE	1.9496	7.8	5.8	1	37	22
88	CHRONIC OBSTRUCTIVE PULMONARY DISEASE	1.0977	6.1	4.9	1	34	17
89	SIMPLE PNEUMONIA & PLEURISY AGE >17 W CC	1.2264	6.4	5.3	1	34	17
90	SIMPLE PNEUMONIA & PLEURISY AGE >17 W/O CC	0.7465	4.6	4.1	1	18	10
91	SIMPLE PNEUMONIA & PLEURISY AGE 0-17	0.6091	3.9	3.3	1	17	9
92	INTERSTITIAL LUNG DISEASE W CC	1.4810	7.2	5.1	1	37	22
93	INTERSTITIAL LUNG DISEASE W/O CC	0.8664	5.3	4.4	1	31	15
94	PNEUMOTHORAX W CC	1.1622	5.9	4.9	1	32	16
95	PNEUMOTHORAX W/O CC	0.6237	4.7	3.7	1	30	14
96	BRONCHITIS & ASTHMA AGE >17 W CC	0.9687	5.3	4.4	1	28	14
97	BRONCHITIS & ASTHMA AGE >17 W/O CC	0.6381	3.8	3.2	1	18	10
98	BRONCHITIS & ASTHMA AGE 0-17	0.5231	3.1	2.7	1	14	7
99	RESPIRATORY SIGNS & SYMPTOMS W CC	0.8240	3.6	2.8	1	22	10
100	RESPIRATORY SIGNS & SYMPTOMS W/O CC	0.5638	2.6	2.0	1	14	7

CHAMPUS WEIGHT AND THRESHOLD SUMMARY

DRG NUMBER	DESCRIPTION	CHAMPUS WEIGHT	ARITHMETIC MEAN LOS	GEOMETRIC MEAN LOS	SHORT STAY THRESHOLD	LONG STAY THRESHOLD	
101	OTHER RESPIRATORY SYSTEM DIAGNOSES W CC	1.0399	5.1	3.9	1	35	17
102	OTHER RESPIRATORY SYSTEM DIAGNOSES W/O CC	0.7252	5.1	2.7	1	34	15
103	HEART TRANSPLANT	-	-	-	-	-	-
104	CARDIAC VALVE PROCEDURES W CARDIAC CATH	8.7602	17.0	14.4	2	46	31
105	CARDIAC VALVE PROCEDURES W/O CARDIAC CATH	6.0086	10.7	9.4	1	41	25
106	CORONARY BYPASS W CARDIAC CATH	6.2730	11.5	10.6	3	34	22
107	CORONARY BYPASS W/O CARDIAC CATH	4.9402	9.1	8.4	2	26	17
108	OTHER CARDIOTHORACIC PROCEDURES	5.2889	10.0	8.5	1	40	24
109	NO LONGER VALID	-	-	-	-	-	-
110	MAJOR CARDIOVASCULAR PROCEDURES W CC	4.4202	10.6	8.5	1	40	25
111	MAJOR CARDIOVASCULAR PROCEDURES W/O CC	2.5163	6.8	5.9	1	31	17
112	PERCUTANEOUS CARDIOVASCULAR PROCEDURES	2.2493	4.5	3.5	1	30	14
113	AMPUTATION FOR CIRC SYSTEM DISORDERS EXCEPT UPPER LIMB & TOE	3.3146	15.8	11.9	1	43	28
114	UPPER LIMB & TOE AMPUTATION FOR CIRC SYSTEM DISORDERS	1.6565	10.3	7.7	1	39	24
115	PERM CARDIAC PACEMAKER IMPLANT W AMI, HEART FAILURE OR SHOCK	4.6156	12.8	10.6	1	42	27
116	OTH PERM CARDIAC PACEMAKER IMPLANT OR AICD LEAD OR GENERATOR PRO	2.9665	5.5	4.1	1	36	18
117	CARDIAC PACEMAKER REVISION EXCEPT DEVICE REPLACEMENT	1.6573	4.3	3.1	1	35	15
118	CARDIAC PACEMAKER DEVICE REPLACEMENT	2.4908	5.1	3.2	1	35	20
119	VEIN LIGATION & STRIPPING	0.7029	2.8	1.9	1	19	8
120	OTHER CIRCULATORY SYSTEM O.R. PROCEDURES	2.9672	11.4	7.1	1	39	24
121	CIRCULATORY DISORDERS W AMI & C.V. COMP DISCH ALIVE	2.2099	7.9	6.8	1	36	20
122	CIRCULATORY DISORDERS W AMI W/O C.V. COMP DISCH ALIVE	1.6507	5.9	5.2	1	28	15
123	CIRCULATORY DISORDERS W AMI, EXPIRED	2.0296	4.2	2.3	1	34	15
124	CIRCULATORY DISORDERS EXCEPT AMI, W CARD CATH & COMPLEX DIAG	1.3642	4.3	3.3	1	31	14
125	CIRCULATORY DISORDERS EXCEPT AMI, W CARD CATH W/O COMPLEX DIAG	0.9101	2.6	2.0	1	15	7
126	ACUTE & SUBACUTE ENDOCARDITIS	3.4824	14.5	10.9	1	42	27
127	HEART FAILURE & SHOCK	1.2162	6.4	5.0	1	36	19
128	DEEP VEIN THROMBOPHLEBITIS	0.8187	6.6	5.7	1	34	18
129	CARDIAC ARREST, UNEXPLAINED	2.0920	4.4	2.4	1	34	17
130	PERIPHERAL VASCULAR DISORDERS W CC	1.1271	7.5	5.7	1	37	22
131	PERIPHERAL VASCULAR DISORDERS W/O CC	0.6835	5.1	4.0	1	36	18
132	ATHEROSCLEROSIS W CC	1.2630	3.4	2.7	1	21	10
133	ATHEROSCLEROSIS W/O CC	0.8941	2.7	2.1	1	16	8
134	HYPERTENSION	0.5972	3.3	2.7	1	17	9
135	CARDIAC CONGENITAL & VALVULAR DISORDERS AGE >17 W CC	0.7510	3.4	2.6	1	22	10
136	CARDIAC CONGENITAL & VALVULAR DISORDERS AGE >17 W/O CC	0.7166	2.7	2.2	1	14	7
137	CARDIAC CONGENITAL & VALVULAR DISORDERS AGE 0-17	1.1408	3.6	2.2	1	31	12
138	CARDIAC ARRHYTHMIA & CONDUCTION DISORDERS W CC	0.8230	3.9	3.0	1	24	11
139	CARDIAC ARRHYTHMIA & CONDUCTION DISORDERS W/O CC	0.5606	2.8	2.2	1	15	7
140	ANGINA PECTORIS	0.7611	3.3	2.7	1	18	9
141	SYNCOPE & COLLAPSE W CC	0.6775	3.5	2.8	1	21	10
142	SYNCOPE & COLLAPSE W/O CC	0.5050	2.5	2.1	1	13	6
143	CHEST PAIN	0.5367	2.3	2.0	1	11	5
144	OTHER CIRCULATORY SYSTEM DIAGNOSES W CC	1.5809	6.5	4.7	1	36	21
145	OTHER CIRCULATORY SYSTEM DIAGNOSES W/O CC	0.8887	3.7	2.9	1	24	11
146	RECTAL RESECTION W CC	2.6225	10.2	9.6	3	27	19
147	RECTAL RESECTION W/O CC	1.8807	8.1	7.8	3	16	12
148	MAJOR SMALL & LARGE BOWEL PROCEDURES W CC	3.4569	12.5	10.7	2	42	27
149	MAJOR SMALL & LARGE BOWEL PROCEDURES W/O CC	1.6752	7.4	6.6	1	29	17
150	PERITONEAL ADHESIOLYSIS W CC	2.2508	9.4	7.6	1	39	24

CHAMPUS WEIGHT AND THRESHOLD SUMMARY

DRG NUMBER	DESCRIPTION	CHAMPUS WEIGHT	ARITHMETIC MEAN LOS	GEOMETRIC MEAN LOS	SHORT STAY THRESHOLD	LONG STAY THRESHOLD	
151	PERITONEAL ADHESIOLYSIS W/O CC	1.2200	5.6	4.6	1	36	17
152	MINOR SMALL & LARGE BOWEL PROCEDURES W CC	2.0346	9.2	8.2	1	35	21
153	MINOR SMALL & LARGE BOWEL PROCEDURES W/O CC	1.0805	5.5	5.0	1	24	13
154	STOMACH, ESOPHAGEAL & DUODENAL PROCEDURES AGE >17 W CC	3.6725	11.7	9.4	1	41	26
155	STOMACH, ESOPHAGEAL & DUODENAL PROCEDURES AGE >17 W/O CC	1.8999	7.2	6.2	1	31	17
156	STOMACH, ESOPHAGEAL & DUODENAL PROCEDURES AGE 0-17	1.4738	7.6	4.9	1	36	21
157	ANAL & STOMAL PROCEDURES W CC	0.9577	4.5	3.4	1	31	14
158	ANAL & STOMAL PROCEDURES W/O CC	0.5887	2.5	2.0	1	13	6
159	HERNIA PROCEDURES EXCEPT INGUINAL & FEMORAL AGE >17 W CC	1.1102	5.2	3.9	1	33	15
160	HERNIA PROCEDURES EXCEPT INGUINAL & FEMORAL AGE >17 W/O CC	0.8486	3.2	2.6	1	17	8
161	INGUINAL & FEMORAL HERNIA PROCEDURES AGE >17 W CC	0.7976	3.3	2.6	1	20	9
162	INGUINAL & FEMORAL HERNIA PROCEDURES AGE >17 W/O CC	0.6162	1.7	1.5	1	6	3
163	HERNIA PROCEDURES AGE 0-17	0.4674	1.7	1.4	1	6	3
164	APPENDECTOMY W COMPLICATED PRINCIPAL DIAG W CC	1.9032	8.4	7.5	1	30	18
165	APPENDECTOMY W COMPLICATED PRINCIPAL DIAG W/O CC	1.1216	4.9	4.1	1	25	13
166	APPENDECTOMY W/O COMPLICATED PRINCIPAL DIAG W CC	1.0159	4.0	3.4	1	17	9
167	APPENDECTOMY W/O COMPLICATED PRINCIPAL DIAG W/O CC	0.6897	2.8	2.5	1	9	6
168	MOUTH PROCEDURES W CC	2.2548	5.4	4.0	1	36	17
169	MOUTH PROCEDURES W/O CC	0.7113	2.3	1.8	1	13	6
170	OTHER DIGESTIVE SYSTEM O.R. PROCEDURES W CC	2.8123	10.9	7.8	1	39	24
171	OTHER DIGESTIVE SYSTEM O.R. PROCEDURES W/O CC	1.1481	5.0	3.7	1	35	17
172	DIGESTIVE MALIGNANCY W CC	1.7578	8.1	5.4	1	37	22
173	DIGESTIVE MALIGNANCY W/O CC	1.1897	5.1	3.9	1	35	16
174	G.I. HEMORRHAGE W CC	1.0341	4.8	3.9	1	25	13
175	G.I. HEMORRHAGE W/O CC	0.6230	3.4	2.8	1	17	9
176	COMPLICATED PEPTIC ULCER	0.9397	4.8	3.8	1	29	14
177	UNCOMPLICATED PEPTIC ULCER W CC	0.7969	4.1	3.6	1	17	10
178	UNCOMPLICATED PEPTIC ULCER W/O CC	0.6795	3.7	3.0	1	20	10
179	INFLAMMATORY BOWEL DISEASE	0.9951	6.1	5.0	1	35	17
180	G.I. OBSTRUCTION W CC	1.0091	6.0	4.4	1	36	18
181	G.I. OBSTRUCTION W/O CC	0.4882	3.4	2.8	1	17	9
182	ESOPHAGITIS, GASTROENT & MISC DIGEST DISORDERS AGE >17 W CC	0.7386	4.2	3.3	1	26	12
183	ESOPHAGITIS, GASTROENT & MISC DIGEST DISORDERS AGE >17 W/O CC	0.5437	3.1	2.5	1	17	8
184	ESOPHAGITIS, GASTROENT & MISC DIGEST DISORDERS AGE 0-17	0.3391	2.7	2.3	1	13	7
185	DENTAL & ORAL DIS EXCEPT EXTRACTIONS & RESTORATIONS, AGE >17	0.7029	3.4	2.6	1	24	11
186	DENTAL & ORAL DIS EXCEPT EXTRACTIONS & RESTORATIONS, AGE 0-17	0.4628	2.6	2.2	1	14	7
187	DENTAL EXTRACTIONS & RESTORATIONS	0.6036	2.7	2.1	1	17	8
188	OTHER DIGESTIVE SYSTEM DIAGNOSES AGE >17 W CC	1.0766	5.8	4.1	1	36	20
189	OTHER DIGESTIVE SYSTEM DIAGNOSES AGE >17 W/O CC	0.4834	3.0	2.4	1	18	9
190	OTHER DIGESTIVE SYSTEM DIAGNOSES AGE 0-17	0.3461	2.0	1.6	1	9	5
191	PANCREAS, LIVER & SHUNT PROCEDURES W CC	4.4240	14.3	11.0	1	42	27
192	PANCREAS, LIVER & SHUNT PROCEDURES W/O CC	1.8892	8.7	7.0	1	39	24
193	BILIARY TRACT PROC EXCEPT ONLY CHOLECYST W OR W/O C.D.E. W CC	3.4112	13.1	10.0	1	41	26
194	BILIARY TRACT PROC EXCEPT ONLY CHOLECYST W OR W/O C.D.E. W/O CC	1.5375	6.6	4.9	1	36	21
195	CHOLECYSTECTOMY W C.D.E. W CC	2.1657	8.9	7.4	1	39	22
196	CHOLECYSTECTOMY W C.D.E. W/O CC	1.6010	7.6	7.1	2	22	14
197	CHOLECYSTECTOMY W/O C.D.E. W CC	1.6080	5.2	3.9	1	35	18
198	CHOLECYSTECTOMY W/O C.D.E. W/O CC	1.0063	2.6	2.0	1	17	8
199	HEPATOBILIARY DIAGNOSTIC PROCEDURE FOR MALIGNANCY	2.1707	9.5	7.0	1	39	24
200	HEPATOBILIARY DIAGNOSTIC PROCEDURE FOR NON-MALIGNANCY	1.4518	5.0	3.2	1	35	19

CHAMPUS WEIGHT AND THRESHOLD SUMMARY

DRG NUMBER	DESCRIPTION	CHAMPUS WEIGHT	ARITHMETIC MEAN LOS	GEOMETRIC MEAN LOS	SHORT STAY THRESHOLD	LONG STAY THRESHOLD	
201	OTHER HEPATOBILIARY OR PANCREAS O.R. PROCEDURES	1.9343	8.5	6.8	1	38	23
202	CIRRHOSIS & ALCOHOLIC HEPATITIS	1.4833	7.7	5.6	1	37	22
203	MALIGNANCY OF HEPATOBILIARY SYSTEM OR PANCREAS	1.3370	7.2	5.2	1	37	22
204	DISORDERS OF PANCREAS EXCEPT MALIGNANCY	1.4038	7.4	5.4	1	37	22
205	DISORDERS OF LIVER EXCEPT MALIG,CIRR,ALC HEPA W CC	1.6233	7.4	5.0	1	37	22
206	DISORDERS OF LIVER EXCEPT MALIG,CIRR,ALC HEPA W/O CC	0.5650	3.2	2.3	1	25	10
207	DISORDERS OF THE BILIARY TRACT W CC	0.8410	4.4	3.5	1	27	13
208	DISORDERS OF THE BILIARY TRACT W/O CC	0.5295	2.7	2.1	1	15	7
209	MAJOR JOINT & LIMB REATTACHMENT PROCEDURES OF LOWER EXTREMITY	2.8706	8.3	7.7	2	23	16
210	HIP & FEMUR PROCEDURES EXCEPT MAJOR JOINT AGE >17 W CC	2.3574	10.2	8.8	1	40	25
211	HIP & FEMUR PROCEDURES EXCEPT MAJOR JOINT AGE >17 W/O CC	1.8173	7.3	6.1	1	37	19
212	HIP & FEMUR PROCEDURES EXCEPT MAJOR JOINT AGE 0-17	1.3523	6.0	4.2	1	36	20
213	AMPUTATION FOR MUSCULOSKELETAL SYSTEM & CONN TISSUE DISORDERS	2.0638	8.5	6.2	1	38	23
214	BACK & NECK PROCEDURES W CC	2.1092	7.0	5.6	1	37	19
215	BACK & NECK PROCEDURES W/O CC	1.1971	4.0	3.4	1	19	10
216	BIOPSIES OF MUSCULOSKELETAL SYSTEM & CONNECTIVE TISSUE	1.5103	6.5	4.1	1	36	21
217	WND DEBRID & SKN GRFT EXCEPT HAND,FOR MUSCSKELET & CONN TISS DIS	2.5493	10.3	6.3	1	38	23
218	LOWER EXTREM & HUMER PROC EXCEPT HIP,FOOT,FEMUR AGE >17 W CC	1.6012	7.0	5.2	1	37	21
219	LOWER EXTREM & HUMER PROC EXCEPT HIP,FOOT,FEMUR AGE >17 W/O CC	1.0015	3.5	2.9	1	17	9
220	LOWER EXTREM & HUMER PROC EXCEPT HIP,FOOT,FEMUR AGE 0-17	0.8563	2.9	2.2	1	17	8
221	KNEE PROCEDURES W CC	1.9691	7.3	4.7	1	36	21
222	KNEE PROCEDURES W/O CC	1.0788	2.8	2.4	1	12	7
223	MAJOR SHOULDER/ELBOW PROC, OR OTHER UPPER EXTREMITY PROC W CC	0.8249	2.7	2.1	1	11	6
224	SHOULDER,ELBOW OR FOREARM PROC,EXC MAJOR JOINT PROC, W/O CC	0.7905	2.2	1.9	1	8	5
225	FOOT PROCEDURES	0.8137	2.5	2.1	1	12	6
226	SOFT TISSUE PROCEDURES W CC	1.2649	4.6	3.6	1	31	14
227	SOFT TISSUE PROCEDURES W/O CC	0.7843	2.6	2.0	1	13	7
228	MAJOR THUMB OR JOINT PROC,OR OTH HAND OR WRIST PROC W CC	0.8297	2.4	1.8	1	12	6
229	HAND OR WRIST PROC, EXCEPT MAJOR JOINT PROC, W/O CC	0.6327	2.0	1.7	1	8	4
230	LOCAL EXCISION & REMOVAL OF INT FIX DEVICES OF HIP & FEMUR	0.7669	2.7	1.9	1	16	7
231	LOCAL EXCISION & REMOVAL OF INT FIX DEVICES EXCEPT HIP & FEMUR	1.0130	3.4	2.3	1	25	10
232	ARTHROSCOPY	1.0714	3.7	2.1	1	28	11
233	OTHER MUSCULOSKELET SYS & CONN TISS O.R. PROC W CC	2.1687	8.0	5.5	1	37	22
234	OTHER MUSCULOSKELET SYS & CONN TISS O.R. PROC W/O CC	1.1826	3.6	2.9	1	21	10
235	FRACTURES OF FEMUR	1.0627	11.3	6.3	1	38	23
236	FRACTURES OF HIP & PELVIS	0.9854	8.6	5.4	1	37	22
237	SPRAINS, STRAINS, & DISLOCATIONS OF HIP, PELVIS & THIGH	0.5602	4.6	2.7	1	34	17
238	OSTEOMYELITIS	1.2013	8.7	6.2	1	38	23
239	PATHOLOGICAL FRACTURES & MUSCULOSKELETAL & CONN TISS MALIGNANCY	1.4004	8.4	5.7	1	37	22
240	CONNECTIVE TISSUE DISORDERS W CC	1.6354	7.9	5.5	1	37	22
241	CONNECTIVE TISSUE DISORDERS W/O CC	0.5836	3.6	2.7	1	26	11
242	SEPTIC ARTHRITIS	1.1639	8.3	6.7	1	38	23
243	MEDICAL BACK PROBLEMS	0.6156	4.3	3.1	1	34	14
244	BONE DISEASES & SPECIFIC ARTHROPATHIES W CC	1.6384	7.5	5.6	1	37	22
245	BONE DISEASES & SPECIFIC ARTHROPATHIES W/O CC	1.1948	4.2	3.2	1	34	14
246	NON-SPECIFIC ARTHROPATHIES	0.6269	5.3	4.3	1	29	14
247	SIGNS & SYMPTOMS OF MUSCULOSKELETAL SYSTEM & CONN TISSUE	0.6141	4.3	3.0	1	34	14
248	TENDONITIS, MYOSITIS & BURSITIS	0.5464	3.6	2.8	1	24	11
249	AFTERCARE, MUSCULOSKELETAL SYSTEM & CONNECTIVE TISSUE	0.8577	5.6	4.0	1	35	20
250	FX, SPRN, STRN & DISL OF FOREARM, HAND, FOOT AGE >17 W CC	0.7541	3.6	2.9	1	23	11

CHAMPUS WEIGHT AND THRESHOLD SUMMARY

DRG NUMBER	DESCRIPTION	CHAMPUS WEIGHT	ARITHMETIC MEAN LOS	GEOMETRIC MEAN LOS	SHORT STAY THRESHOLD	LONG STAY THRESHOLD	
251	FX, SPRN, STRN & DISL OF FOREARM, HAND, FOOT AGE >17 W/O CC	0.5060	2.2	1.8	1	10	5
252	FX, SPRN, STRN & DISL OF FOREARM, HAND, FOOT AGE 0-17	0.3586	1.5	1.3	1	5	3
253	FX, SPRN, STRN & DISL OF UPARM,LOWLEG EX FOOT AGE >17 W CC	0.7536	4.7	3.2	1	35	17
254	FX, SPRN, STRN & DISL OF UPARM,LOWLEG EX FOOT AGE >17 W/O CC	0.4361	3.0	2.4	1	17	8
255	FX, SPRN, STRN & DISL OF UPARM,LOWLEG EX FOOT AGE 0-17	0.3849	2.2	1.7	1	11	5
256	OTHER MUSCULOSKELETAL SYSTEM & CONNECTIVE TISSUE DIAGNOSES	0.7319	4.0	2.6	1	33	13
257	TOTAL MASTECTOMY FOR MALIGNANCY W CC	1.0222	3.6	3.1	1	15	8
258	TOTAL MASTECTOMY FOR MALIGNANCY W/O CC	0.8570	2.7	2.4	1	9	6
259	SUBTOTAL MASTECTOMY FOR MALIGNANCY W CC	0.9832	2.9	2.1	1	19	8
260	SUBTOTAL MASTECTOMY FOR MALIGNANCY W/O CC	0.6956	1.9	1.7	1	6	4
261	BREAST PROC FOR NON-MALIGNANCY EXCEPT BIOPSY & LOCAL EXCISION	1.0035	2.1	1.9	1	8	4
262	BREAST BIOPSY & LOCAL EXCISION FOR NON-MALIGNANCY	0.7421	2.8	2.0	1	24	10
263	SKIN GRAFT &/OR DEBRID FOR SKN ULCER OR CELLULITIS W CC	2.8933	14.5	11.0	1	43	28
264	SKIN GRAFT &/OR DEBRID FOR SKN ULCER OR CELLULITIS W/O CC	1.2699	5.8	4.5	1	36	17
265	SKIN GRAFT &/OR DEBRID EXCEPT FOR SKIN ULCER OR CELLULITIS W CC	2.0708	6.9	4.8	1	36	21
266	SKIN GRAFT &/OR DEBRID EXCEPT FOR SKIN ULCER OR CELLULITIS W/O C	1.0657	4.1	2.9	1	31	13
267	PERIANAL & PILONIDAL PROCEDURES	0.5360	1.9	1.5	1	9	5
268	SKIN, SUBCUTANEOUS TISSUE & BREAST PLASTIC PROCEDURES	0.7317	2.8	2.1	1	17	8
269	OTHER SKIN, SUBCUT TISS & BREAST PROC W CC	1.8584	8.1	5.5	1	37	22
270	OTHER SKIN, SUBCUT TISS & BREAST PROC W/O CC	0.7500	2.9	2.1	1	19	8
271	SKIN ULCERS	1.3483	9.6	7.6	1	39	24
272	MAJOR SKIN DISORDERS W CC	1.2843	6.2	4.6	1	36	21
273	MAJOR SKIN DISORDERS W/O CC	0.5371	4.4	3.5	1	28	13
274	MALIGNANT BREAST DISORDERS W CC	1.2843	6.2	4.5	1	36	20
275	MALIGNANT BREAST DISORDERS W/O CC	0.8629	4.8	3.9	1	23	12
276	NON-MALIGANT BREAST DISORDERS	0.5639	3.4	2.6	1	20	9
277	CELLULITIS AGE >17 W CC	0.9949	6.6	5.4	1	37	18
278	CELLULITIS AGE >17 W/O CC	0.5617	4.2	3.6	1	18	10
279	CELLULITIS AGE 0-17	0.4766	3.8	3.2	1	20	10
280	TRAUMA TO THE SKIN, SUBCUT TISS & BREAST AGE >17 W CC	0.6858	3.5	2.5	1	27	11
281	TRAUMA TO THE SKIN, SUBCUT TISS & BREAST AGE >17 W/O CC	0.4799	2.2	1.7	1	11	5
282	TRAUMA TO THE SKIN, SUBCUT TISS & BREAST AGE 0-17	0.4100	2.3	1.6	1	12	5
283	MINOR SKIN DISORDERS W CC	0.7056	4.6	3.7	1	27	13
284	MINOR SKIN DISORDERS W/O CC	0.3603	3.1	2.4	1	18	8
285	AMPUTAT OF LOWER LIMB FOR ENDOCRINE,NUTRIT,& METABOL DISORDERS	3.2635	15.8	10.9	1	42	27
286	ADRENAL & PITUITARY PROCEDURES	2.3602	9.0	6.7	1	38	23
287	SKIN GRAFTS & WOUND DEBRID FOR ENDOC, NUTRIT & METAB DISORDERS	1.8654	10.5	8.3	1	40	25
288	O.R. PROCEDURES FOR OBESITY	1.6862	4.6	4.3	1	13	8
289	PARATHYROID PROCEDURES	0.9366	3.0	2.3	1	15	8
290	THYROID PROCEDURES	0.8000	2.3	2.0	1	9	5
291	THYROGLOSSAL PROCEDURES	0.5342	1.6	1.5	1	4	3
292	OTHER ENDOCRINE, NUTRIT & METAB O.R. PROC W CC	3.1379	13.1	9.2	1	41	26
293	OTHER ENDOCRINE, NUTRIT & METAB O.R. PROC W/O CC	1.1321	5.4	4.4	1	34	16
294	DIABETES AGE >35	0.7653	5.4	4.5	1	27	14
295	DIABETES AGE 0-35	0.5727	4.0	3.4	1	20	10
296	NUTRITIONAL & MISC METABOLIC DISORDERS AGE >17 W CC	1.0160	6.0	4.4	1	36	19
297	NUTRITIONAL & MISC METABOLIC DISORDERS AGE >17 W/O CC	0.5408	3.5	2.7	1	21	10
298	NUTRITIONAL & MISC METABOLIC DISORDERS AGE 0-17	0.3679	2.9	2.4	1	14	7
299	INBORN ERRORS OF METABOLISM	1.0113	5.1	2.9	1	34	19
300	ENDOCRINE DISORDERS W CC	0.9919	6.4	4.3	1	36	21

CHAMPUS WEIGHT AND THRESHOLD SUMMARY

DRG NUMBER	DESCRIPTION	CHAMPUS WEIGHT	ARITHMETIC MEAN LOS	GEOMETRIC MEAN LOS	SHORT STAY THRESHOLD	LONG STAY THRESHOLD	
301	ENDOCRINE DISORDERS W/O CC	0.5039	3.0	2.4	1	17	8
302	KIDNEY TRANSPLANT	5.5621	11.4	10.6	3	33	22
303	KIDNEY,URETER & MAJOR BLADDER PROCEDURES FOR NEOPLASM	2.3613	9.1	8.0	1	36	21
304	KIDNEY,URETER & MAJOR BLADDER PROC FOR NON-NEOPL W CC	2.2136	9.0	6.9	1	38	23
305	KIDNEY,URETER & MAJOR BLADDER PROC FOR NON-NEOPL W/O CC	1.1020	4.7	3.9	1	27	13
306	PROSTATECTOMY W CC	1.4804	7.6	4.9	1	36	21
307	PROSTATECTOMY W/O CC	0.7447	3.0	2.8	1	9	6
308	MINOR BLADDER PROCEDURES W CC	1.4281	6.8	4.9	1	36	21
309	MINOR BLADDER PROCEDURES W/O CC	0.9502	4.0	2.7	1	34	14
310	TRANSURETHRAL PROCEDURES W CC	1.0220	3.9	2.8	1	28	12
311	TRANSURETHRAL PROCEDURES W/O CC	0.7827	2.4	2.0	1	11	6
312	URETHRAL PROCEDURES, AGE >17 W CC	0.7369	3.3	2.5	1	28	12
313	URETHRAL PROCEDURES, AGE >17 W/O CC	0.4881	2.1	1.6	1	13	6
314	URETHRAL PROCEDURES, AGE 0-17	1.0452	6.7	2.7	1	34	19
315	OTHER KIDNEY & URINARY TRACT O.R. PROCEDURES	2.0861	8.0	5.0	1	37	22
316	RENAL FAILURE	1.5303	7.3	5.2	1	37	22
317	ADMIT FOR RENAL DIALYSIS	0.5075*	3.9	2.8	1	26	26
318	KIDNEY & URINARY TRACT NEOPLASMS W CC	1.1716	5.1	3.3	1	35	18
319	KIDNEY & URINARY TRACT NEOPLASMS W/O CC	0.6069	3.0	2.1	1	24	10
320	KIDNEY & URINARY TRACT INFECTIONS AGE >17 W CC	0.8733	5.5	4.3	1	29	15
321	KIDNEY & URINARY TRACT INFECTIONS AGE >17 W/O CC	0.5497	3.7	3.2	1	16	9
322	KIDNEY & URINARY TRACT INFECTIONS AGE 0-17	0.4789	3.7	3.2	1	15	9
323	URINARY STONES W CC, &/OR ESW LITHOTRIPSY	0.7308	3.0	2.3	1	19	9
324	URINARY STONES W/O CC	0.3739	1.9	1.6	1	8	4
325	KIDNEY & URINARY TRACT SIGNS & SYMPTOMS AGE >17 W CC	0.6427	4.0	3.0	1	29	13
326	KIDNEY & URINARY TRACT SIGNS & SYMPTOMS AGE >17 W/O CC	0.4041	2.2	1.8	1	11	6
327	KIDNEY & URINARY TRACT SIGNS & SYMPTOMS AGE 0-17	0.2750	1.5	1.4	1	4	2
328	URETHRAL STRICTURE AGE >17 W CC	0.6363*	4.8	3.6	1	27	27
329	URETHRAL STRICTURE AGE >17 W/O CC	0.4113*	2.9	2.1	1	18	18
330	URETHRAL STRICTURE AGE 0-17	0.2830*	1.6	1.6	1	9	9
331	OTHER KIDNEY & URINARY TRACT DIAGNOSES AGE >17 W CC	1.0426	5.5	4.1	1	36	18
332	OTHER KIDNEY & URINARY TRACT DIAGNOSES AGE >17 W/O CC	0.4781	2.7	2.1	1	16	8
333	OTHER KIDNEY & URINARY TRACT DIAGNOSES AGE 0-17	0.6420	4.4	3.1	1	35	16
334	MAJOR MALE PELVIC PROCEDURES W CC	2.0181	7.4	7.0	2	21	14
335	MAJOR MALE PELVIC PROCEDURES W/O CC	1.6106	6.5	6.2	2	14	10
336	TRANSURETHRAL PROSTATECTOMY W CC	0.9212	4.0	3.6	1	15	9
337	TRANSURETHRAL PROSTATECTOMY W/O CC	0.7105	3.1	2.8	1	8	5
338	TESTES PROCEDURES, FOR MALIGNANCY	1.4955	6.3	4.0	1	36	21
339	TESTES PROCEDURES, NON-MALIGNANCY AGE >17	0.9790	3.9	2.4	1	34	13
340	TESTES PROCEDURES, NON-MALIGNANCY AGE 0-17	0.4883	1.3	1.2	1	3	2
341	PENIS PROCEDURES	1.1654	2.6	2.1	1	14	7
342	CIRCUMCISION AGE >17	0.5766*	3.7	2.5	1	25	25
343	CIRCUMCISION AGE 0-17	0.3845*	1.7	1.7	1	6	6
344	OTHER MALE REPRODUCTIVE SYSTEM O.R. PROCEDURES FOR MALIGNANCY	1.4694	4.7	4.0	1	27	13
345	OTHER MALE REPRODUCTIVE SYSTEM O.R. PROC EXCEPT FOR MALIGNANCY	0.7482	3.1	2.3	1	25	10
346	MALIGNANCY, MALE REPRODUCTIVE SYSTEM, W CC	1.0085	5.7	3.6	1	35	20
347	MALIGNANCY, MALE REPRODUCTIVE SYSTEM, W/O CC	0.5654	4.0	2.6	1	34	17
348	BENIGN PROSTATIC HYPERTROPHY W CC	0.7201	3.4	3.0	1	14	8
349	BENIGN PROSTATIC HYPERTROPHY W/O CC	0.5030	3.2	2.8	1	14	8
350	INFLAMMATION OF THE MALE REPRODUCTIVE SYSTEM	0.6048	4.1	3.5	1	18	10

CHAMPUS WEIGHT AND THRESHOLD SUMMARY

DRG NUMBER	DESCRIPTION	CHAMPUS WEIGHT	ARITHMETIC MEAN LOS	GEOMETRIC MEAN LOS	SHORT STAY THRESHOLD	LONG STAY THRESHOLD	
351	STERILIZATION, MALE	0.3384*	1.3	1.3	1	5	5
352	OTHER MALE REPRODUCTIVE SYSTEM DIAGNOSES	0.5094	3.0	2.1	1	23	10
353	PELVIC EVISCERATION, RADICAL HYSTERECTOMY & RADICAL VULVECTOMY	1.8147	7.5	7.1	2	19	13
354	UTERINE,ADNEXA PROC FOR NON-OVARIAN/ADNEXAL MALIG W CC	1.4154	5.8	5.2	1	19	12
355	UTERINE,ADNEXA PROC FOR NON-OVARIAN/ADNEXAL MALIG W/O CC	0.8918	3.8	3.6	1	10	7
356	FEMALE REPRODUCTIVE SYSTEM RECONSTRUCTIVE PROCEDURES	0.8619	3.6	3.3	1	12	7
357	UTERINE & ADNEXA PROC FOR OVARIAN OR ADNEXAL MALIGNANCY	1.9573	7.7	6.7	1	31	18
358	UTERINE & ADNEXA PROC FOR NON-MALIGNANCY W CC	1.1721	4.4	4.0	1	14	9
359	UTERINE & ADNEXA PROC FOR NON-MALIGNANCY W/O CC	0.9192	3.5	3.3	1	9	6
360	VAGINA, CERVIX & VULVA PROCEDURES	0.8451	3.6	3.1	1	18	9
361	LAPAROSCOPY & INCISIONAL TUBAL INTERRUPTION	0.9160	3.4	2.7	1	20	10
362	ENDOSCOPIC TUBAL INTERRUPTION	0.4625	1.1	1.1	1	2	1
363	D&C, CONIZATION & RADIO-IMPLANT, FOR MALIGNANCY	0.6051	2.6	2.3	1	9	5
364	D&C, CONIZATION EXCEPT FOR MALIGNANCY	0.5347	2.2	1.7	1	12	6
365	OTHER FEMALE REPRODUCTIVE SYSTEM O.R. PROCEDURES	1.1435	4.9	3.8	1	29	14
366	MALIGNANCY, FEMALE REPRODUCTIVE SYSTEM W CC	1.3641	7.6	4.8	1	36	21
367	MALIGNANCY, FEMALE REPRODUCTIVE SYSTEM W/O CC	0.6156	3.0	2.4	1	17	8
368	INFECTIONS, FEMALE REPRODUCTIVE SYSTEM	0.5816	3.8	3.4	1	15	9
369	MENSTRUAL & OTHER FEMALE REPRODUCTIVE SYSTEM DISORDERS	0.3781	2.3	1.9	1	11	6
370	CESAREAN SECTION W CC	0.9992	4.8	4.3	1	14	9
371	CESAREAN SECTION W/O CC	0.7821	3.7	3.6	1	8	6
372	VAGINAL DELIVERY W COMPLICATING DIAGNOSES	0.5737	3.0	2.6	1	12	7
373	VAGINAL DELIVERY W/O COMPLICATING DIAGNOSES	0.4003	2.1	1.9	1	6	4
374	VAGINAL DELIVERY W STERILIZATION &/OR D&C	0.6660	2.3	2.2	1	6	4
375	VAGINAL DELIVERY W O.R. PROC EXCEPT STERIL &/OR D&C	0.6473	2.6	2.3	1	10	6
376	POSTPARTUM & POST ABORTION DIAGNOSES W/O O.R. PROCEDURE	0.4557	3.1	2.6	1	15	8
377	POSTPARTUM & POST ABORTION DIAGNOSES W O.R. PROCEDURE	1.0080	4.3	2.6	1	34	14
378	ECTOPIC PREGNANCY	0.8222	2.8	2.5	1	11	6
379	THREATENED ABORTION	0.4125	3.0	2.2	1	19	8
380	ABORTION W/O D&C	0.3151	1.6	1.4	1	6	3
381	ABORTION W D&C, ASPIRATION CURETTAGE OR HYSTEROTOMY	0.4429	1.4	1.2	1	4	2
382	FALSE LABOR	0.2050	1.5	1.2	1	5	3
383	OTHER ANTEPARTUM DIAGNOSES W MEDICAL COMPLICATIONS	0.3687	3.1	2.5	1	17	8
384	OTHER ANTEPARTUM DIAGNOSES W/O MEDICAL COMPLICATIONS	0.3624	2.7	1.9	1	17	8
385	NO LONGER VALID	-	-	-	-	-	
386	NO LONGER VALID	-	-	-	-	-	
387	NO LONGER VALID	-	-	-	-	-	
388	NO LONGER VALID	-	-	-	-	-	
389	NO LONGER VALID	-	-	-	-	-	
390	NO LONGER VALID	-	-	-	-	-	
391	NORMAL NEWBORN	0.1163	2.2	2.0	1	7	4
392	SPLENECTOMY AGE >17	3.1066	10.0	7.8	1	39	24
393	SPLENECTOMY AGE 0-17	1.7073	6.4	5.9	1	18	12
394	OTHER O.R. PROCEDURES OF THE BLOOD AND BLOOD FORMING ORGANS	1.0016	4.4	3.0	1	34	16
395	RED BLOOD CELL DISORDERS AGE >17	1.0172	5.6	4.2	1	36	19
396	RED BLOOD CELL DISORDERS AGE 0-17	0.6376	4.4	3.3	1	32	14
397	COAGULATION DISORDERS	0.9734	3.9	2.8	1	29	12
398	RETICULOENDOTHELIAL & IMMUNITY DISORDERS W CC	1.4548	6.7	5.2	1	37	19
399	RETICULOENDOTHELIAL & IMMUNITY DISORDERS W/O CC	0.6341	4.3	3.6	1	21	11
400	LYMPHOMA & LEUKEMIA W MAJOR O.R. PROCEDURE	2.3620	7.7	5.4	1	37	22

CHAMPUS WEIGHT AND THRESHOLD SUMMARY

DRG NUMBER	DESCRIPTION	CHAMPUS WEIGHT	ARITHMETIC MEAN LOS	GEOMETRIC MEAN LOS	SHORT STAY THRESHOLD	LONG STAY THRESHOLD	
401	LYMPHOMA & NON-ACUTE LEUKEMIA W OTHER O.R. PROC W CC	2.3208	10.6	6.8	1	38	23
402	LYMPHOMA & NON-ACUTE LEUKEMIA W OTHER O.R. PROC W/O CC	1.4402	5.8	3.4	1	35	20
403	LYMPHOMA & NON-ACUTE LEUKEMIA W CC	2.5105	10.1	6.6	1	38	23
404	LYMPHOMA & NON-ACUTE LEUKEMIA W/O CC	0.9398	5.0	3.7	1	35	15
405	ACUTE LEUKEMIA W/O MAJOR O.R. PROCEDURE AGE 0-17	3.8673	12.0	6.5	1	38	23
406	MYELOPROLIF DISORD OR POORLY DIFF NEOPL W MAJ O.R.PROC W CC	2.8729	10.4	8.5	1	40	25
407	MYELOPROLIF DISORD OR POORLY DIFF NEOPL W MAJ O.R.PROC W/O CC	2.0642	6.8	5.2	1	37	19
408	MYELOPROLIF DISORD OR POORLY DIFF NEOPL W OTHER O.R.PROC	1.2607	5.9	3.3	1	35	20
409	RADIOTHERAPY	1.0563	4.7	3.4	1	33	14
410	CHEMOTHERAPY W/O ACUTE LEUKEMIA AS SECONDARY DIAGNOSIS	0.8423	3.4	2.8	1	18	9
411	HISTORY OF MALIGNANCY W/O ENDOSCOPY	0.4256*	3.3	2.4	1	23	23
412	HISTORY OF MALIGNANCY W ENDOSCOPY	0.4257*	2.9	2.0	1	20	20
413	OTHER MYELOPROLIF DIS OR POORLY DIFF NEOPL DIAG W CC	1.5520	7.8	5.7	1	37	22
414	OTHER MYELOPROLIF DIS OR POORLY DIFF NEOPL DIAG W/O CC	0.7172	3.8	2.7	1	27	12
415	O.R. PROCEDURE FOR INFECTIOUS & PARASITIC DISEASES	3.6533	13.0	8.8	1	40	25
416	SEPTICEMIA AGE >17	2.0537	8.9	6.7	1	38	23
417	SEPTICEMIA AGE 0-17	1.0384	5.8	4.3	1	36	18
418	POSTOPERATIVE & POST-TRAUMATIC INFECTIONS	0.9839	6.5	5.2	1	37	19
419	FEVER OF UNKNOWN ORIGIN AGE >17 W CC	1.1438	5.8	4.7	1	30	15
420	FEVER OF UNKNOWN ORIGIN AGE >17 W/O CC	0.6407	4.0	3.4	1	21	11
421	VIRAL ILLNESS AGE >17	0.5987	3.6	2.9	1	21	10
422	VIRAL ILLNESS & FEVER OF UNKNOWN ORIGIN AGE 0-17	0.4109	3.1	2.6	1	13	7
423	OTHER INFECTIOUS & PARASITIC DISEASES DIAGNOSES	1.0887	6.0	4.3	1	36	18
424	O.R. PROCEDURE W PRINCIPAL DIAGNOSES OF MENTAL ILLNESS	2.9836	19.2	9.0	1	41	26
425	ACUTE ADJUST REACT & DISTURBANCES OF PSYCHOSOCIAL DYSFUNCTION	0.7712	6.3	4.1	1	36	21
426	DEPRESSIVE NEUROSES	1.1356	9.9	6.9	1	38	23
427	NEUROSES EXCEPT DEPRESSIVE	1.0336	8.9	5.7	1	37	22
428	DISORDERS OF PERSONALITY & IMPULSE CONTROL	1.2824	12.7	7.5	1	39	24
429	ORGANIC DISTURBANCES & MENTAL RETARDATION	1.2165	18.6	12.2	1	44	29
430	PSYCHOSES	1.1668	10.2	7.5	1	39	24
431	CHILDHOOD MENTAL DISORDERS	1.6928	16.0	10.8	1	42	27
432	OTHER MENTAL DISORDER DIAGNOSES	1.2273	12.0	8.8	1	40	25
433	ALCOHOL/DRUG ABUSE OR DEPENDENCE, LEFT AMA	0.5010	5.0	2.8	1	34	19
434	ALC/DRUG ABUSE OR DEPEND, DETOX OR OTH SYMPT TREAT W CC	0.9332	8.3	5.3	1	37	22
435	NO LONGER VALID	-	-	-	-	-	
436	ALC/DRUG DEPENDENCE W REHABILITATION THERAPY	1.3581	26.5	22.7	3	54	39
437	ALC/DRUG DEPENDENCE, COMBINED REHAB & DETOX THERAPY	1.3816	19.4	16.6	2	48	33
438	NO LONGER VALID	-	-	-	-	-	
439	SKIN GRAFTS FOR INJURIES	1.3374	6.4	3.9	1	35	20
440	WOUND DEBRIDEMENTS FOR INJURIES	1.4242	6.4	4.0	1	36	21
441	HAND PROCEDURES FOR INJURIES	0.7911	2.6	2.1	1	14	7
442	OTHER O.R. PROCEDURES FOR INJURIES W CC	1.9980	7.1	4.6	1	36	21
443	OTHER O.R. PROCEDURES FOR INJURIES W/O CC	0.9822	3.5	2.4	1	28	11
444	TRAUMATIC INJURY AGE >17 W CC	0.8431	5.1	4.3	1	25	13
445	TRAUMATIC INJURY AGE >17 W/O CC	0.6414	2.8	2.1	1	19	8
446	TRAUMATIC INJURY AGE 0-17	0.4302	2.1	1.7	1	10	5
447	ALLERGIC REACTIONS AGE >17	0.4540	2.2	1.7	1	11	5
448	ALLERGIC REACTIONS AGE 0-17	0.3290	2.5	2.0	1	15	7
449	POISONING & TOXIC EFFECTS OF DRUGS AGE >17 W CC	0.8311	3.7	2.6	1	28	12
450	POISONING & TOXIC EFFECTS OF DRUGS AGE >17 W/O CC	0.4651	2.4	1.7	1	13	6

CHAMPUS WEIGHT AND THRESHOLD SUMMARY

DRG NUMBER	DESCRIPTION	CHAMPUS WEIGHT	ARITHMETIC MEAN LOS	GEOMETRIC MEAN LOS	SHORT STAY THRESHOLD	LONG STAY THRESHOLD	
451	POISONING & TOXIC EFFECTS OF DRUGS AGE 0-17	0.4097	2.3	1.6	1	12	5
452	COMPLICATIONS OF TREATMENT W CC	0.9826	5.2	3.6	1	35	17
453	COMPLICATIONS OF TREATMENT W/O CC	0.4236	2.9	2.1	1	18	8
454	OTHER INJURY, POISONING & TOXIC EFFECT DIAG W CC	1.4065	6.2	3.4	1	35	20
455	OTHER INJURY, POISONING & TOXIC EFFECT DIAG W/O CC	0.3710	1.7	1.4	1	6	3
456	BURNS, TRANSFERRED TO ANOTHER ACUTE CARE FACILITY	1.7285*	8.8	4.6	1	28	28
457	EXTENSIVE BURNS W/O O.R. PROCEDURE	2.0147*	8.8	3.6	1	27	27
458	NON-EXTENSIVE BURNS W SKIN GRAFT	3.7097	16.5	11.7	1	43	28
459	NON-EXTENSIVE BURNS W WOUND DEBRIDEMENT OR OTHER O.R. PROC	1.7520	7.9	5.7	1	37	22
460	NON-EXTENSIVE BURNS W/O O.R. PROCEDURE	0.9889	6.0	4.2	1	36	21
461	O.R. PROC W DIAGNOSES OF OTHER CONTACT W HEALTH SERVICES	1.5195	8.4	3.1	1	35	20
462	REHABILITATION	2.0024	14.8	10.5	1	42	27
463	SIGNS & SYMPTOMS W CC	0.8596	6.1	4.1	1	36	20
464	SIGNS & SYMPTOMS W/O CC	0.4968	2.5	2.1	1	13	6
465	AFTERCARE W HISTORY OF MALIGNANCY AS SECONDARY DIAGNOSIS	0.3531*	2.8	1.9	1	20	20
466	AFTERCARE W/O HISTORY OF MALIGNANCY AS SECONDARY DIAGNOSIS	0.6074	4.3	2.2	1	34	15
467	OTHER FACTORS INFLUENCING HEALTH STATUS	0.5435	3.2	1.9	1	23	9
468	EXTENSIVE O.R. PROCEDURE UNRELATED TO PRINCIPAL DIAGNOSIS	2.4969	8.8	5.1	1	37	22
469	PRINCIPAL DIAGNOSIS INVALID AS DISCHARGE DIAGNOSIS	-	-	-	-	-	
470	UNGROUPABLE	-	-	-	-	-	
471	BILATERAL OR MULTIPLE MAJOR JOINT PROCS OF LOWER EXTREMITY	4.5015	11.8	10.5	2	42	26
472	EXTENSIVE BURNS W O.R. PROCEDURE	16.8383	31.0	24.2	1	56	41
473	ACUTE LEUKEMIA W/O MAJOR O.R. PROCEDURE AGE >17	7.1399	18.6	9.5	1	41	26
474	NO LONGER VALID	-	-	-	-	-	
475	RESPIRATORY SYSTEM DIAGNOSIS WITH VENTILATOR SUPPORT	4.6432	12.1	8.1	1	40	25
476	PROSTATIC O.R. PROCEDURE UNRELATED TO PRINCIPAL DIAGNOSIS	1.8482	8.0	6.4	1	38	23
477	NON-EXTENSIVE O.R. PROCEDURE UNRELATED TO PRINCIPAL DIAGNOSIS	1.3366	5.8	3.7	1	35	20
478	OTHER VASCULAR PROCEDURES W CC	2.8725	8.3	6.0	1	38	23
479	OTHER VASCULAR PROCEDURES W/O CC	1.8682	4.9	3.7	1	35	16
480	LIVER TRANSPLANT	-	-	-	-	-	
481	BONE MARROW TRANSPLANT	14.4932	31.7	29.3	8	61	46
482	TRACHEOSTOMY W MOUTH, LARYNX OR PHARYNX DISORDER	4.4124	14.2	10.7	1	42	27
483	TRACHEOSTOMY EXCEPT FOR MOUTH, LARYNX OR PHARYNX DISORDER	19.0946	37.2	26.6	1	58	43
484	CRANIOTOMY FOR MULTIPLE SIGNIFICANT TRAUMA	6.5706*	23.3	14.9	1	38	38
485	LIMB REATTACHMENT, HIP AND FEMUR PROC FOR MULTIPLE SIGNIFICANT T	4.8937	15.2	12.2	1	44	29
486	OTHER O.R. PROCEDURES FOR MULTIPLE SIGNIFICANT TRAUMA	5.5523	14.8	11.0	1	42	27
487	OTHER MULTIPLE SIGNIFICANT TRAUMA	2.1971	8.8	6.3	1	38	23
488	HIV W EXTENSIVE O.R. PROCEDURE	4.1539*	23.1	16.5	1	39	39
489	HIV W MAJOR RELATED CONDITION	2.7018	9.9	7.7	1	39	24
490	HIV W OR W/O OTHER RELATED CONDITION	1.2182	5.3	3.5	1	35	20
491	MAJOR JOINT & LIMB REATTACHMENT PROCEDURES OF UPPER EXTREMITY	1.6733	4.9	3.6	1	23	12
492	CHEMOTHERAPY W ACUTE LEUKEMIA AS SECONDARY DIAGNOSIS	0.9314	3.8	3.4	1	15	9
600	NEONATE, DIED W/IN ONE DAY OF BIRTH	0.5883	1.0	1.0	1	1	1
601	NEONATE, TRANSFERRED <5 DAYS OLD	0.5210	1.7	1.4	1	3	3
602	NEONATE, BIRTHWT <750G, DISCHARGED ALIVE	16.6604	34.5	11.4	1	28	28
603	NEONATE, BIRTHWT <750G, DIED	14.9248	26.7	7.2	1	24	24
604	NEONATE, BIRTHWT 750-999G, DISCHARGED ALIVE	17.3914	54.6	34.0	1	50	50
605	NEONATE, BIRTHWT 750-999G, DIED	20.3015	34.0	14.4	1	31	31
606	NEONATE, BIRTHWT 1000-1499G, W SIGNIF OR PROC, DISCHARGED ALIVE	17.7205	45.8	42.7	12	59	59
607	NEONATE, BIRTHWT 1000-1499G, W/O SIGNIF OR PROC, DISCHARGED ALIV	6.9324	31.6	22.7	1	39	39

CHAMPUS WEIGHT AND THRESHOLD SUMMARY

DRG NUMBER	DESCRIPTION	CHAMPUS WEIGHT	ARITHMETIC MEAN LOS	GEOMETRIC MEAN LOS	SHORT STAY THRESHOLD	LONG STAY THRESHOLD	
608	NEONATE, BIRTHWT 1000-1499G, DIED	8.5271	12.0	11.1	3	25	25
609	NEONATE, BIRTHWT 1500-1999G, W SIGNIF OR PROC, W MULT MAJOR PROB	7.8006	19.8	15.4	1	32	32
610	NEONATE, BIRTHWT 1500-1999G, W SIGNIF OR PROC, W/O MULT MAJOR PR	0.0000	0.0	0.0	0	0	0
611	NEONATE, BIRTHWT 1500-1999G, W/O SIGNIF OR PROC, W MULT MAJOR PR	5.5769	22.3	16.8	1	33	33
612	NEONATE, BIRTHWT 1500-1999G, W/O SIGNIF OR PROC, W MAJOR PROB	3.8567	21.5	17.0	1	33	33
613	NEONATE, BIRTHWT 1500-1999G, W/O SIGNIF OR PROC, W MINOR PROB	2.8699	17.8	15.1	2	32	32
614	NEONATE, BIRTHWT 1500-1999G, W/O SIGNIF OR PROC, W OTHER PROB	1.2985	11.4	8.9	1	25	25
615	NEONATE, BIRTHWT 2000-2499G, W SIGNIF OR PROC, W MULT MAJOR PROB	12.1155	45.0	38.6	6	55	55
616	NEONATE, BIRTHWT 2000-2499G, W SIGNIF OR PROC, W/O MULT MAJOR PR	6.3613	26.0	23.8	5	40	40
617	NEONATE, BIRTHWT 2000-2499G, W/O SIGNIF OR PROC, W MULT MAJOR PR	4.5729	15.6	11.1	1	28	28
618	NEONATE, BIRTHWT 2000-2499G, W/O SIGNIF OR PROC, W MAJOR PROB	1.9889	9.7	7.1	1	24	24
619	NEONATE, BIRTHWT 2000-2499G, W/O SIGNIF OR PROC, W MINOR PROB	1.4246	9.3	7.6	1	24	24
620	NO LONGER VALID	-	-	-	-	-	
621	NEONATE, BIRTHWT 2000-2499G, W/O SIGNIF OR PROC, W OTHER PROB	0.4074	4.1	3.2	1	12	12
622	NEONATE, BIRTHWT >2499G, W SIGNIF OR PROC, W MULT MAJOR PROB	8.6354	19.7	14.1	1	31	31
623	NEONATE, BIRTHWT >2499G, W SIGNIF OR PROC, W/O MULT MAJOR PROB	3.1651	10.4	6.8	1	23	23
624	NEONATE, BIRTHWT >2499G, W MINOR ABDOM PROCEDURE	0.6489	3.0	2.7	1	7	7
625	NO LONGER VALID	-	-	-	-	-	
626	NEONATE, BIRTHWT >2499G, W/O SIGNIF OR PROC, W MULT MAJOR PROB	3.7576	11.3	7.3	1	24	24
627	NEONATE, BIRTHWT >2499G, W/O SIGNIF OR PROC, W MAJOR PROB	0.9799	5.1	3.7	1	16	16
628	NEONATE, BIRTHWT >2499G, W/O SIGNIF OR PROC, W MINOR PROB	0.5454	4.2	3.4	1	11	11
629	NO LONGER VALID	-	-	-	-	-	
630	NEONATE, BIRTHWT >2499G, W/O SIGNIF OR PROC, W OTHER PROB	0.1746	2.5	2.3	1	5	5
631	BPD AND OTH CHRONIC RESPIRATORY DISEASES ARISING IN PERINATAL PE	3.8302	22.8	12.5	1	29	29
632	OTHER RESPIRATORY PROBLEMS AFTER BIRTH	0.6250	4.5	2.8	1	17	17
633	MULTIPLE, OTHER AND UNSPECIFIED CONGENITAL ANOMALIES, W CC	0.0000	0.0	0.0	0	0	0
634	MULTIPLE, OTHER AND UNSPECIFIED CONGENITAL ANOMALIES, W/O CC	5.5957	11.7	6.1	1	23	23
635	NEONATAL AFTERCARE FOR WEIGHT GAIN	0.9095	16.0	16.0	15	16	16
636	NEONATAL DIAGNOSIS, AGE > 28 DAYS	4.0557	14.9	8.2	1	25	25
900	ALC/DRUG ABUSE OR DEPEND, DETOX OR OTH SYMPT TREAT AGE <= 21 W/O	1.1975	16.4	9.1	1	41	26
901	ALC/DRUG ABUSE OR DEPEND, DETOX OR OTH SYMPT TREAT AGE > 21 W/O	0.8259	9.4	6.1	1	38	23

Notes: (1) Long stay threshold "B" is used for children's hospitals.
(2) * = low volume DRG with fewer than 10 cases. The Medicare weights, LOS, and thresholds are used for these DRGs.

[FR Doc. 93-1833 Filed 1-26-93; 8:45 am]
BILLING CODE 3810-01-C

DEPARTMENT OF EDUCATION

Office of Educational Research and Improvement (OERI)

Solicitation of Written Public Comments

AGENCY: Department of Education.

ACTION: Notice to solicit written public comments on problems and issues related to educationally at-risk student.

Purpose: The Secretary invites written comments on research needed to improve the education of students who are at risk of educational failure or substantially below average academic achievement. The Secretary is particularly interested in comments from education researchers, practitioners, policymakers and others interested in educational reform. The Secretary is seeking comments that will inform the Department about high-priority problems and issues whose solutions might be aided by new research findings, and about new research and evaluation methods and strategies that are likely to advance our knowledge about the problems and solutions. Comments that propose an agenda that builds on past or on-going programs and research in the U.S. Department of Education—notably Chapter 1, State departments of education, other national organizations and foundations, or elsewhere will be most helpful. The Department will consider these written comments in planning various competitions, which might include competitions to support national research and development center(s) on educationally at-risk students.

Deadline for transmittal of comments: Comments should be received on or before March 1, 1993. All comments should be addressed to Planning Group, Center on Educationally At-Risk Students, U.S. Department of Education, OERI, Office of Research, room 617, 555 New Jersey Avenue, NW., Washington, DC 20208–5646.

Applicable regulations: The regulations for the Regional Educational Laboratories and Research Development Centers Programs, 34 CFR parts 706, 707, and 708.

FOR FURTHER INFORMATION CONTACT: For additional information write to Dr. Harold S. Himmelfarb at the address above or call (202) 219–2223. Deaf and hearing impaired individuals may call the Federal Dual Party Relay Service at 1–800–877–8339 (in the Washington, DC 202 area code, telephone 708–9300) between 8 a.m. and 7 p.m., Eastern time.

Program Authority: 20 U.S.C. 1221e.

Dated: January 15, 1993.

Diane Ravitch,

Assistant Secretary for Educational Research and Improvement.

[FR Doc. 93–1916 Filed 1–26–93; 8:45 am]

BILLING CODE 4000–01–M

Advisory Council on Education Statistics; Meeting

AGENCY: Advisory Council on Education Statistics, Education.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the Advisory Council on Education Statistics. This notice also describes the functions of the Council. Notice of this meeting is required under section 10(a)(2) of the Federal Advisory Committee Act. This document is intended to notify the general public of their opportunity to attend.

DATES AND TIME: March 11, 1993, 9 a.m.–4 p.m. and March 12, 1993, 9 a.m.–Noon.

ADDRESSES: 555 New Jersey Avenue, NW., room 326, Washington, DC 20208.

FOR FURTHER INFORMATION CONTACT: Suellen Mauchamer, Executive Director, Advisory Council on Education Statistics, 555 New Jersey Avenue, room 400E, Washington, DC 20208–7575, telephone (202) 219–1839.

SUPPLEMENTARY INFORMATION: The Advisory Council on Education Statistics (ACES) is established under section 406(c)(1) of the Education Amendments of 1974, Public Law 93–380. The Council is established to review general policies for the operation of the National Center for Education Statistics (NCES) in the Office of Educational Research and Improvement and is responsible for advising on standards to insure that statistics and analyses disseminated by NCES are of high quality and are not subject to political influence. The meeting of the Council is open to the public.

The proposed agenda includes the following:

- Statistical data release policy on economic and social statistics
- NCES reauthorization
- ACES review of advisory committee activities
- Council Business

Records are kept of all Council proceedings and are available for public inspection at the Office of the Executive Director, Advisory Council on Education Statistics, 555 New Jersey Avenue NW., room 400E, Washington, DC 20208–7575.

Dated: January 19, 1993.

Diane Ravitch,

Assistant Secretary for Educational Research and Improvement.

[FR Doc. 93–1914 Filed 1–26–93; 8:45 am]

BILLING CODE 4000–01–M

[CFDA No. 84.215A]

Fund for Innovation in Education: Innovation in Education Program; Notice Inviting Applications for New Awards for Fiscal Year 1993

Purpose of Program: To provide grants for projects that show promise of identifying and disseminating innovative educational approaches at the elementary and secondary levels.

Eligible Applicants: State educational agencies, local educational agencies, institutions of higher education, private schools, and other public and private agencies, organizations and institutions, or consortia of those agencies.

Deadline for Transmittal of Applications: April 30, 1993.

Deadline for Intergovernmental Review: June 29, 1993.

Applications Available: February 12, 1993.

Estimated Available Funds: $1,500,000.

Estimated Range of Awards: $100,000–300,000.

Estimated Number of Awards: 7.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 18 months.

Applicable Regulations: The Education Department General Administrative Regulations (EDGAR) 34 CFR parts 74, 75, 77, 79, 80, 81, 82, 85, and 86.

Priorities: Under 34 CFR 75.105(c)(1), the Secretary is interested in applications that meet the following invitational priority. However, an application that meets this invitational priority does not receive competitive or absolute preference over other applications:

Projects that design, develop, and implement innovative approaches for helping all students reach high standards of academic achievement in mathematics, science, history, the arts, civics, geography, foreign languages, and English.

Selection Criteria: In evaluating applications for grants under this competition, the Secretary uses the selection criteria in 34 CFR 75.210(b). Under 34 CFR 75.210(c), the Secretary is authorized to distribute an additional 15 points among the criteria to bring the total to a maximum of 100 points. For this competition, the Secretary

distributes the additional points as follows:

Plan of Operation. (34 CFR 75.210(b)(3)). Fifteen additional points are added to this criterion for a possible total of 30 points.

Limitation on Length of Applications: The applicant must limit the application narrative to no more than 25 double-spaced, 8½×11" pages (on one side only) with one-inch margins. If using a proportional computer font, use no smaller than a 12-point font. If using a nonproportional computer font or a typewriter, do not use more than 10 characters to the inch. Proposal narratives that exceed this page limit, or narratives using a smaller print size or spacing that makes the narrative exceed the equivalent of this limit, will not be considered for funding.

For Applications or Information Contact: Shirley Steele, U.S. Department of Education, 555 New Jersey Avenue NW., room 522, Washington, DC 20208–5524. Telephone (202) 219–1496. Deaf and hearing impaired individuals may call the Federal Dual Party Relay Service at 1–800–877–8339 (in the Washington, DC 202 area code, telephone 708–9300) between 8 a.m. and 7 p.m., Eastern time.

Program Authority: 20 U.S.C. 3151.

Dated: January 19, 1993.

Diane Ravitch,

Assistant Secretary for Educational Research and Improvement.

[FR Doc. 93–1984 Filed 1–26–93; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Record of Decision; Continued Operation of the Lawrence Livermore National Laboratory (LLNL) and Sandia National Laboratories, Livermore (SNL, Livermore), Livermore, CA

AGENCY: Department of Energy.

ACTION: Record of Decision; Continued Operation of the Lawrence Livermore National Laboratory (LLNL) and Sandia National Laboratories, Livermore (SNL, Livermore), Livermore, California.

SUMMARY: The Department of Energy (DOE) has considered the environmental impacts, benefits and costs, and institutional and programmatic needs associated with the continued operation of the Lawrence Livermore National Laboratory (LLNL) and Sandia National Laboratories, Livermore (SNL, Livermore). DOE has decided that it will continue operation of LLNL and SNL, Livermore, including near-term (within 5 to 10 years) proposed projects. This action includes current operations plus programmatic enhancements and facility modifications required to support the research and development missions established for the Laboratories by Congress and the President.

As provided and encouraged by the regulations implementing the National Environmental Policy Act (NEPA) and the California Environmental Quality Act (CEQA), DOE and the University of California (UC) have prepared a joint Environmental Impact Statement (DOE/EIS–0157) and Environmental Impact Report (EIR) to analyze the impacts of the proposed action. UC was required to prepare an EIR prior to the renewal of its contract with DOE to manage and operate LLNL. In addition to the proposed action, the document discusses a no action alternative for continuing operations at FY 1992 funding levels without further expansion of Laboratory facilities; a modification of operations alternative focused on modifying specific adverse environmental impacts of operations or facilities; and a shutdown and decommissioning alternative. Additionally, in order to meet CEQA requirements, the EIR portion of the document also examines the alternative of UC discontinuing its management of LLNL upon expiration of the then-current contract on September 30, 1992. On November 20, 1992, the UC Board of Regents voted to continue management of LLNL until 1998.

FOR FURTHER INFORMATION CONTACT: For further information on the EIS/EIR, contact Anthony J. Adduci; DOE/EIS; 1333 Broadway; Oakland, CA 94612 (510/273–7315). For further information on the DOE NEPA process, contact C.M. Borgstrom, Director, Office of NEPA Oversight [EH–25], Office of Environment, Safety and Health, U.S. Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585 202/586–4600 or 800/472–2756.

SUPPLEMENTAL INFORMATION

DOE prepared this Record of Decision pursuant to Council on Environmental Quality Regulations for implementing the procedural provisions of NEPA (40 CFR parts 1500–1508, December 15, 1987) and DOE regulations 57 FR 15122 (April 24, 1992), to be codified at 10 CFR part 1021. This Record of Decision is based on the DOE Final Environmental Impact Statement for Continued Operation of the Lawrence, Livermore National Laboratory (LLNL) and Sandia National Laboratories, Livermore (SNL, Livermore) [DOE/EIS–0157].

LLNL was established in 1952 as a scientific laboratory dedicated to national defense research, but its mission has been broadened to include energy, the environment, biomedicine, the economy, and education. LLNL supports science education through precollege, university, and postgraduate programs. SNL, Livermore was established in 1956 to support LLNL in ordnance engineering; its mission has been broadened to include treaty verification and control, research and development in support of national energy programs.

The DOE sites exist at three separate locations: the LLNL Livermore Site, LLNL Site 300, and Sandia National Laboratories, Livermore.

LLNL Livermore Site occupies a total area of approximately 1.2 square miles (821 acres), located about 40 miles east of San Francisco at the southeast end of the Livermore Valley in southern Alameda County, California. The City of Livermore's central business district is located about 3 miles to the west. The site is operated for DOE by the University of California.

LLNL Site 300, located about 15 miles southeast of Livermore in the sparsely populated hills of the Diablo Range, is a non-nuclear high explosives test facility. The site covers approximately 11 square miles (7000 acres), with about one-sixth of the site in Alameda County, and the remainder in San Joaquin County, California. The site is operated for DOE by the University of California.

SNL, Livermore is located on 413 acres next to and south of the LLNL Livermore site. The site is currently operated for DOE by AT&T. (DOE and AT&T have announced that AT&T will not seek to renew its contract to operate Sandia National Laboratories, which includes SNL, Livermore. The current contract does not end until September 30, 1993, until which time AT&T will continue to operate SNL, Livermore. DOE will select another contractor to manage and operate Sandia National Laboratories, including SNL, Livermore.)

Analysis of the existing environment and the environmental impacts of continued operations of the three sites is presented in the Environmental Impact Statement and Environmental Impact Report for Continued Operation of Lawrence Livermore National Laboratory and Sandia National Laboratories, Livermore (DOE/EIS–0157).

Alternatives Considered: Four alternatives were considered:

1. *Proposed Action.* The proposed action is the continued operation of LLNL and SNL, Livermore, including

near-term (within 5 to 10 years) proposed projects. The proposed action, therefore, necessarily includes the current operations listed below under the No Action alternative, plus programmatic enhancements and facility modifications pursuant to research and development missions established for the Laboratories by Congress and the President.

More specifically, the proposed action includes the construction of facilities at the LLNL Livermore Site, at LLNL Site 300, and at SNL, Livermore. Proposed new facilities at the LLNL Livermore Site would add approximately 530,000 gross square feet, increasing current developed space by approximately 9 percent. Consistent with existing space use, the new facilities would be mostly light laboratory and office space. Examples of the largest proposed new facilities at the LLNL Livermore Site include a Decontamination/Waste Treatment Facility, an Inertial Confinement Fusion Users Support Facility, an Earth Sciences Building, and a Verification, Intelligence, and Special Technology Analysis Center. Proposed new facilities at LLNL Site 300 would add approximately 32,000 square feet to the existing total of 350,000 square feet, resulting in a net increase in facility space of approximately 9 percent. This increase results mainly from the proposed construction of the Contained Firing Facility and the Fire Station No. 2 Replacement. Proposed new facilities at SNL, Livermore are expected to add approximately 50,000 square feet to the existing 830,000 square feet, resulting in an increase in developed space of about 6 percent. The tritium limit at SNL, Livermore's Tritium Research Laboratory would be reduced to zero and the building decontaminated and decommissioned under this alternative.

The proposed action also includes upgrade, operational or maintenance projects, and operation modifications at the three sites. In addition to the activities discussed above, the proposed action at both LLNL and SNL, Livermore, includes such routine activities as infrastructure and building maintenance, minor modifications to buildings, general landscaping, road maintenance, and similar support activities.

2. *No Action.* This alternative provides for continued operation, including those LLNL and SNL, Livermore projects already authorized and funded through FY 1992. LLNL and SNL, Livermore programs and projects would continue at their present (FY 1992) levels, but no proposed or tentative projects would be added except those required to maintain the existing infrastructure or those required to comply with statutes and regulations for completion of environmental remediation activities at the sites. LLNL environmental restoration activities are being done pursuant to the Comprehensive Environmental Response Compensation and Liability Act (CERCLA) agreements. SNL, Livermore environmental restoration activities are being implemented in accordance with CERCLA, pursuant to orders of the California Regional Water Quality Control Board.

The No Action alternative at both LLNL and SNL, Livermore, includes routine activities such as infrastructure and building maintenance, minor modification to buildings, general landscaping, road maintenance, and similar support activities. As in the proposed action, the tritium limit at SNL, Livermore's Tritium Research Laboratory would be reduced to zero and the building decontaminated and decommissioned under this alternative.

A range of physical plant maintenance activities are part of this alternative. These include roof replacements for over 100 buildings, rehabilitation of over 6.5 miles of roads and more than 2.51 million square feet of parking lots at the LLNL Livermore site and SNL, Livermore, and upgrading low-voltage electrical systems in 565 buildings. Employment and funding levels, adjusted for inflation, would remain at FY 1992 levels.

3. *Modification of Operations.* Under this alternative, operations at LLNL and SNL, Livermore, including near-term (within 5 to 10 years) proposed projects, would be modified to even further reduce environmental impacts. Modification of operations is broadly defined as the scaledown of operations and/or the application of alternative technologies and management strategies (formerly two alternatives as described in the Notice of Intent, 55 FR 41048). Selection of this alternative would require study to ensure that LLNL and SNL, Livermore missions would continue to be accomplished. To identify potential modifications to be discussed, existing operations at LLNL and SNL, Livermore, were evaluated for their environmental impact. The criteria for selecting such potential modifications were:

—Operations with a potential for, or a history of, greatest worker exposure.
—Operations with the greatest potential impact on the public, based on accident analyses.
—Operations historically generating the greatest quantities of transuranic waste, low-level waste, mixed waste, or waste restricted from land disposal.

Possible modifications include combination of waste management operations at the two Laboratories; modification of operations in the plating shop so as to prevent the mixing of incompatible chemicals in the event of a severe earthquake; and acquisition of buffer zones to reduce fenceline exposures and to preclude the development of residential and/or industrial areas immediately downwind of the two Laboratories. These examples of possible modifications are illustrative of various options being considered. If any of these examples were selected, more detailed engineering and environmental evaluations would be prepared.

4. *Shutdown and Decommissioning.* This alternative involves the phase out of all research and development operations at LLNL and SNL, Livermore, and eventual shutdown and decommissioning of all facilities. Under this alternative, shutdown would be an orderly phaseout of programmatic research and development efforts. A phased shutdown is estimated to take 5 years. This estimate is based on periods for planning, environmental documentation of the impact of closing facilities, and phaseout of programs and shutdown of facilities. The Laboratories would require a caretaker staff during and after shutdown to maintain the decommissioning, environmental restoration and compliance infrastructure. The caretaker staff would continue operation and maintenance of LLNL and SNL, Livermore, support functions including security; utilities; shipping and receiving; environmental, safety and health protection; and other services.

Decommissioning would involve the restoration, decontamination or destruction and disposal of contaminated facilities. Decommissioning and environmental compliance activities would start during shutdown and continue for an estimated 5 years beyond shutdown. Radioactive and other potentially hazardous sources would be removed and transported to other DOE or commercial facilities. LLNL and SNL, Livermore, would be restored so that facilities could be conveyed unrestricted to new owners or operators in a phased transfer, and in accordance with applicable regulatory requirements. however, the subsequent fate of the various programs was considered to be beyond the scope of this EIS/EIR.

The projects to be eliminated and the facilities to be shutdown would be those

in existence as of FY 1992. Those projects and facilities that are required in order to comply with statutes and regulations (e.g., remediation activities) would continue.

Environmentally Preferable Alternative. The long-term environmentally preferable alternative would be the shutdown and decommissioning of the Laboratories because it would result in the cessation of waste production. Such a decision does not, however, take into consideration the vital long-term requirements of future defense needs and other Federally sponsored research and development efforts. Initially, because of clean-up activities, shutdown and decommissioning could have greater impacts than the continued operation at FY 1992 funding levels (No Action alternative). These environmental impacts, however, would gradually be reduced to near zero. This alternative would require a legislative redirection of the DOE mission, an initiative to significantly restructure and consolidate the National Laboratories, or both.

Decision

DOE will continue operation of both Lawrence Livermore National Laboratory and Sandia National Laboratories, Livermore including near-term (within 5 to 10 years) proposed projects. This includes current operations plus programmatic enhancements and facility modifications required to support the research and development missions established for the Laboratories by Congress and the President. DOE will continue to comply with all applicable Federal, State, and local environmental regulations.

Pursuant to the Atomic Energy Act of 1954, as amended, DOE is responsible for nuclear weapons research and design, as well as other energy research and development. LLNL and SNL, Livermore, undertake research and development missions, including weapons research and design, established by the Congress and the President. To implement these research and development missions, continued and enhanced LLNL and SNL, Livermore operations are necessary.

The LLNL mission is to serve as national resource of scientific, technical, and engineering capability with a special focus on national security. This mission includes research and development, strategic defense, arms control and treaty verification technology, energy, the environment, biomedicine, the economy, and education.

Although the primary mission of SNL, Livermore is national security, with principal emphasis on development and engineering of non-nuclear systems and components associated with nuclear weapons, SNL, Livermore has evolved into a multi-program laboratory undertaking a wide variety of research and development activities. These activities range from national security issues to support of the national energy program.

DOE recognizes that in recent years there has been a significant change in the world's political environment. In scoping the EIS, DOE considered whether or not to include in the proposed action or the alternatives a change in the basic mission of the Laboratories as currently established by Congress and the President. Indeed, in late 1991, Secretary of Energy, James Watkins chartered an Advisory Board Task Force to begin to examine the future activities of the National Laboratories, including LLNL and SNL, Livermore. Comprised of non-DOE personnel with extensive knowledge of energy and defense issues, the task force recommended that in addition to the Laboratories' continued activities in energy and defense, capacities in science and technology also be brought to bear on the environmental cleanup of DOE facilities. While the Secretary can encourage the evolution of the agency toward a new set of missions—in part developed by independent task forces and other citizen recommendations—any change in the DOE missions must come from the President and Congress.

The goals of an agency, as defined by its enabling legislation, determine the universe of the proposed action and the reasonable alternatives. Although, as described below, DOE has initiated an effort to determine in the long term how the National Laboratories capabilities can best be employed to serve the nation's research needs, that effort has not yet reached the point of formulating any specific proposals for consideration by Congress and the President. Furthermore, currently there are no specific proposals by Congress or the President for any changes in the DOE missions. Thus, at the present time, the alternative of excluding all nuclear weapons research and design activities and replacing them with other non-nuclear weapons activities, as suggested by many commentors, is too speculative to be evaluated meaningfully. The scope of the Draft and Final EISs, therefore, was tied to the evaluation of alternative ways of achieving the DOE currently mandated missions.

DOE has considered the effect of the recently enacted limitations on underground nuclear testing contained in section 507 of the Energy and Water Development Appropriations Act of 1993, Public Law 102–377, and has determined that it does not change the overall missions of the respective National Laboratories. One of the primary missions for the National Laboratories, as mandated by the Atomic Energy Act of 1954, continues to be the research and design work necessary to ensure the safety and effectiveness of the Nation's nuclear weapons stockpile.

Section 507 does not significantly modify the activities conducted at LLNL and SNLL in support of this mission. In fact, as the limitations of section 507 on nuclear testing take effect, the essential scientific and engineering work of the Laboratories, including computer simulations and other means of system testing, will be of paramount importance in ensuring the safety and effectiveness of the stockpile. This is particularly the case for the next 5 to 10 years, the period covered by the EIS.

Nevertheless, DOE is considering what activities necessary to support the DOE nuclear weapons mission should be carried out at LLNL and SNL, Livermore. Secretary of Energy, James Watkins has proposed to reconfigure the nuclear weapons complex to be smaller, less diverse, and more economical to operate. As part of this proposal DOE is examining whether certain weapons research, development, and testing activities now taking place at the National Laboratories should be consolidated. DOE is preparing a programmatic (PEIS) on its reconfiguration proposal. The Reconfiguration PEIS will address the long-term mission of LLNL and SNL, Livermore; in contrast, this EIS addresses the near-term continued operation of LLNL and SNL, Livermore.

The focus of possible new long-term missions cannot be addressed until after completion of the Reconfiguration PEIS. Therefore, identification and description of new missions for LLNL and SNL, Livermore and analysis of associated environmental effects would be highly speculative and beyond the scope of the EIS. However, this document is expected to facilitate the environmental assessment of future changes in missions or activities. Such changes would be reviewed against the Final EIS and further NEPA and/or CEQA review efforts would be undertaken if appropriate. This could include the preparation of a supplemental EIS, or other NEPA/CEQA documentation to support specific projects.

The Secretary has initiated a Waste Minimization Cross Cut Plan and a Waste Minimization and Pollution Prevention Executive Board. Any future impact on either LLNL and SNL, Livermore, resulting from the Cross Cut Plan or from Board directives will be reviewed against the FEIS and further NEPA and/or CEQA review would be undertaken at that time, if deemed appropriate.

Selection of the no action alternative could cause schedule delays, changes in funding priorities, less flexibility in responding to new program initiatives, and other potential program impacts. This could result in only the partial fulfillment of the research and development missions established by Congress and the President.

Selection of the shutdown and decommissioning alternative without transferring important research and development work elsewhere is also not possible. As has been pointed out, such action would require a legislative redirection of the DOE mission, an initiative to significantly restructure and consolidate the National Laboratories, or both. It is therefore not likely to be implemented within the time frame that was the focus of the Final EIS. Specific actions that might be proposed to implement this alternative would have to be addressed, as appropriate, in subsequent NEPA documents.

Selection of the modification of operations alternative would require more detailed engineering and environmental evaluations to select facilities and operations for modification; this could include a study to ensure there would be no impacts to LLNL and SNL, Livermore missions resulting from the adoption of this alternative. This would cause schedule modifications and delays and possible changes in funding priorities. The implementation of any of the suggested modifications is not precluded, however, if the proposed action is adopted.

Major Environmental Impacts and Mitigation Measures. The environmental impacts analyzed for the proposed action are based on assumptions that are designed to be a reasonable projection of the upper bound for consequences. These assumptions are not intended to be predictions of actual future consequences. For example, the number of personnel at the Laboratories is assumed to increase at the historical rate of 2 percent per year, while projections provided in the Laboratories' institutional 5-year plans show almost no growth in personnel. That is, the historical average is used as an upper bound for determining environmental impacts. Waste streams are similarly assumed to increase to provide an upper bound for the impacts. These projections were made without accounting for current waste minimization programs at the Laboratories. These assumptions also do not consider any future waste minimization plans implemented during the course of the proposed action resulting from the Waste Minimization Cross Cut Plan or from Waste Minimization and Pollution Prevention Executive Board directives.

The majority of the impacts identified in the Final EIS require no specific additional mitigation measures except the continuation of current control procedures to protect workers and the public. These measures are discussed together with their associated impacts in Section 5 of Volume I of the Final EIS.

In some cases, however, mitigation measures are proposed to reduce or eliminate impacts. Programs to monitor implementation of these mitigation measures will be conducted as appropriate. In addition, DOE is committed to continued compliance with applicable Federal, State and local environmental regulations and requirements in the operation of the Laboratories.

Those impacts which can only be partially mitigated or are beyond the control of DOE to mitigate include the following:

(1) Any increase in housing demand in the region created by the proposed action in the near term (5 to 10 years) could not be accommodated by the existing Livermore housing market and other markets in the region. This impact is made more severe by increased demand due to cumulative regional growth in addition to the Laboratories' growth. Mitigation measures impacting housing availability are beyond the authority of DOE.

(2) Any increase in employees under the proposed action could impact school services provided by the Livermore Valley Joint Unified School District and other districts in the region. The addition of an estimated 800 students to the existing facilities would result in a potential impact due to an existing shortage of school capacity at the Livermore Valley Joint Unified School District and some other school districts in the region. To partially mitigate this impact, DOE will continue to participate in the Federal Government's Impact Aid Program, which provides funds to the school district.

(3) The increase in nitrogen dioxide, volatile organic compounds, and fugitive dust emissions from Laboratory facilities and vehicles under the proposed action contribute to an existing non-attainment condition for ozone and particulate standards. The Laboratories' emissions of these pollutants are in addition to those from other area sources. Although the individual contributions are low, because the area is in non-attainment for ozone and particulate standards, these emissions constitute a significant impact.

(4) As a result of future development at LLNL and SNL, Livermore, and its surrounding area, cumulative roadway noise will increase substantially along a number of roads near the Livermore sites. Mitigation measures in the surrounding area that might reduce this impact are beyond the control of DOE.

(5) The proposed action, along with planned and proposed development near the LLNL Livermore site and SNL, Livermore, would result in a cumulative increase in traffic congestion at certain intersections. This increase would be primarily due to the proposed development of surrounding land. Mitigation measures would be needed in the surrounding area to reduce this impact, and such measures are beyond the control of DOE.

(6) Water usage by the Laboratories can be mitigated; however, cumulative development would increase demand for and consumption of water at a time of continuing drought in the State. Mitigation measures, beyond those proposed by DOE in the FEIS, could reduce this cumulative impact.

(7) Both LLNL and SNL, Livermore, generate mixed waste, almost all of which is prohibited from land disposal under RCRA without first being treated to meet defined standards. Currently, no treatment or disposal options are available for most of these wastes. Even though adequate storage facilities presently exist and no adverse health impacts will result from extended storage, extended storage of these wastes may violate RCRA storage requirements (42 U.S.C. section 3004 U). The EPA recognizes that "generators and storers of these wastes may find it impossible to comply with the . . . storage prohibition if there are no available options for treatment or disposal of the wastes." The EPA suggests that "responsible management practices should minimize the environmental risks from these section 3004 storage violations" (56 Fed. Reg. 42731, May 23, 1990).

(8) Assumed growth at LLNL and SNL, Livermore, may contribute to cumulative impacts resulting from increased waste generation and waste shipments in the region. Measures to

fully mitigate these impacts are beyond the control of DOE, but LLNL and SNL, Livermore, will take measures to partially mitigate these impacts, such as treating the waste to reduce total volumes.

(9) The proposed action, along with planned and proposed development in the vicinity of LLNL Site 300, would result in a cumulative increase in traffic congestion at the Corral Hollow Road/I–580 interchange. Measures that would reduce this impact are beyond the control of DOE.

(10) Currently, solid waste from LLNL Site 300 is sent to the Corral Hollow Sanitary Landfill for disposal. This landfill is scheduled to close in 1995, but the county has not yet identified an alternative landfill location. Under the proposed action, the anticipated increase in solid waste generation from LLNL Site 300 is approximately 500 cubic yards per year. This increase, plus the cumulative contributions from other sources in the region, would constitute an impact until another landfill location is identified.

(11) The proposed action in conjunction with anticipated cumulative regional development could result in an impact to wetlands in the vicinity of LLNL Site 300. The full extent of wetlands within the study area (defined as the portion of the Diablo Range within the San Joaquin County in the vicinity of LLNL Site 300) is not known. It is known, however, that at least four developments, totaling approximately 10,000 acres, could be constructed in the wetlands study area beyond the boundaries of LLNL Site 300. The impacts to wetlands by other projects within the study area beyond LLNL Site 300 cannot be mitigated by DOE.

(12) Increases in criteria pollutant emissions associated with stationary and mobile sources at LLNL Site 300 in addition to other regional sources of emissions would contribute to a cumulative impact on regional air quality. Although LLNL Site 300 contribution to area emissions is small, these emissions constitute a significant impact because the area is in non-attainment for ozone and particulate standards.

(13) The demand for and consumption of water at LLNL Site 300 together with cumulative demand from other users in the vicinity could contribute to a potential impact on available water supplies. Population in San Joaquin County is projected to increase by 47.7 percent by the year 2010. Added to the assumed 9 percent increase in water usage at LLNL Site 300, this could constitute an impact if drought and other limiting factors continue, despite LLNL conservation measures. DOE does not have the ability to control water use beyond the boundaries of its facilities.

(14) The projected increase in waste generation at the Laboratories under the proposed action implies an increased need for treatment and disposal facilities for these wastes. A similar need may exist for waste generators elsewhere in the country. In order to evaluate the cumulative impact of this widespread waste generation, the problem must be addressed on a national scale. DOE is evaluating the national capacity for and cumulative impact on waste treatment and disposal facilities as part of the Programmatic Environmental Impact Statement for Environmental Restoration and Waste Management. The Laboratories can and will minimize their rate of waste generation and treat what wastes they can to reduce waste quantities requiring offsite treatment and disposal; however, the general problem is beyond the scope of this EIS.

As part of the EIR process the University of California outlined the following monitoring and mitigation measures, which are described in its Mitigation Monitoring and Reporting Program and which are also described in Section 5 of Volume I of the FEIS. It is the Department's intention to pursue the following mitigation measures to avoid or minimize impacts associated with the proposed action, subject to the availability of funding by the Congress:

(1) The Laboratories will require employees and contractors to report any evidence of cultural resources unearthed during development excavation at the Laboratories' sites. An archaeologist will assess any unearthed resources at the construction site. If necessary, construction will be stopped to preclude disturbance of any cultural resources, conduct testing, and recommend mitigation measures in accordance with DOE and CEQA guidelines.

Following completion of the section 106 review process (i.e., compliance with the National Historic Preservation Act), the cultural resource management plan outlining the methodology for managing identified historic resources at the LLNL Livemore site will be made available to the public. In addition, management and mitigation activities implemented at the LLNL Livermore site will be reported annually.

(2) All buildings and facilities under the proposed action at the Laboratories, including retrofits, will be built or modified (or retrofitted) according to established seismic design criteria based on their hazard ranking and location as stated in DOE Order 5481.1B.

Engineering and administrative measures will be taken to anticipate and prevent releases of hazardous substances resulting from strong ground shaking at any given facility.

Site-specific geotechnical investigations by a California Certified Engineering Geologist, a California Registered Geologist or a California Registered Civil Engineer specializing in geotechnical studies, will be performed for proposed structures at LLNL and SNL, Livermore. The recommendations of the geotechnical investigation regarding foundations and subterranean drainage will be included in project design.

(3) At LLNL Site 300, consistent with U.S. Fish and Wildlife Service (1989) recommendations, protective exclusion zones will be established around kit fox dens observed in the 300-foot and 50-foot buffer zones established for purposes of construction (300-foot) and right of way (50-foot).

Any known and pupping kit fox dens found will be posted with a sign near the den entrance stating the presence of a sensitive resource. To ensure protection of these dens, fencing will be installed around each den following the exclusion distances specified above. The exclusion fencing will consist of large stakes (4- to 5-foot metal or 1 × 1-inch wooden stakes) connected with a heavy rope or cord, and will be maintained for the duration of the construction project. Potential kit fox dens found within a proposed construction site buffer zone will have 2-foot wooden stakes with flagging placed at the dens entrance and will be maintained for the duration of the construction project.

Monthly checks of known and pupping dens will be conducted to ensure that the signs, stages, and fencing are still intact. Monitoring will be done as unobtrusively as possible, staying outside the exclusion zones.

If known kit fox dens occur within the areas of proposed disturbance or development, and impact to these resources is unavoidable, the following procedures will be implemented. Prior to the onset of construction and den destruction, the U.S. Fish and Wildlife Service and the California Department of Fish and Game will be provided the opportunity to review and comment on the proposed action. These agencies may recommend alternative courses of action to avoid den destruction or reduce impacts.

If given permission by these agencies, excavation of known kit fox dens may then proceed. When the den is thought

to be unoccupied, the entrance can then be progressively plugged with loose dirt for several days to discourage the use of the den while still allowing resident animals to escape easily. When sign of activity at the den ceases and it is deemed safe to do so by a trained kit fox biologist, the den can be dug out with hand tools to a point where it is certain no kit fox is using the den. The den will be fully excavated and then filled with dirt and compacted to ensure that a kit fox cannot reenter the den during the construction period. If at any point a kit fox is thought to be using the den, the plugging or excavation activity will stop, and the U.S. Fish and Wildlife Service and the California Department of Fish and Game will be contacted. All plugging and excavation efforts will be conducted by a trained kit fox biologist.

(4) The 0.5 acre of wetlands that would likely be lost because of the shutdown of leaking cooling towers (see page 5–80) in EIS) will be replaced pursuant to consultation with the California Department of Fish and Game. One potential measure would be to use the artificial wetland vegetation that would likely be created in Corral Hollow Creek as a result of the ground water restoration project at LLNL Site 300 as mitigation for these lost wetlands. The ground water restoration project is an ongoing project at LLNL Site 300 that is part of continuing operations.

(5) LLNL and SNL, Livermore will continue to enhance waste minimization policies and practices to reduce generation of mixed wastes at the source. When treatment, storage, and/or disposal options become available for these mixed wastes, the Laboratories would pursue those alternatives.

Mitigation Action Plan

Section 1021.331(a) of the DOE regulations implementing NEPA (57FR 15144, April 4, 1992, to be codified at 10CFR Part 1021) states that DOE shall prepare a Mitigation Action Plan that addresses mitigation commitments expressed in the ROD. The Mitigation Action Plan will be prepared before DOE takes any action directed by the ROD that its the subject of a mitigation commitment.

Conclusion

The defense and other Federally-sponsored research and development work performed at LLNL and SNL, Livermore continues to play a vital role in national defense, energy, security, environment, biomedicine, economy and education. Until Congress and the President modify the missions of the Laboratories, their continued operation in the near term is necessary. At the same time, DOE will continue to evaluate the benefits of measures to avoid or minimize environmental impacts associated with this decision.

Issued at Washington, D.C. this 21st day of January, 1993.

Linda G. Stuntz,

Acting Secretary of Energy.

[FR Doc. 93–2010 Filed 1–26–93; 8:45 am]

BILLING CODE 6450–01–M

Floodplain/Wetland Involvement Notification for Environmental Restoration Activities at the Department of Energy's Rocky Flats Plant Near Golden, Colorado

AGENCY: Department of Energy (DOE).

ACTION: Notice of floodplain/wetland involvement.

SUMMARY: Regulations at 10 CFR part 1022 require DOE to evaluate actions it may take in a floodplain or wetland, in order to ensure consideration of protection of the floodplain/wetland in decision making. As soon as practicable after it is determined that an action may be undertaken in a floodplain or wetland, 10 CFR 1022.14 requires that a public notice be published in the **Federal Register** including a description of the proposed action and its location.

DOE is engaged in environmental monitoring and is in the early stages of a multiyear Environmental Restoration Program at its Rocky Flats Plant (RFP) north of Golden, Colorado. Small areas of the 6,550-acre plant site are within floodplains or include wetlands, and some environmental monitoring and Environmental Restoration activities will take place in floodplains or wetlands.

The proposed actions include: 1. Collection of samples for (a) environmental monitoring to identify and monitor the current status of, and changes to, the natural environment; (b) site characterization to identify the nature and extent of contamination; and (c) treatability studies to test the effectiveness of specific treatment technologies on contaminated media;

2. Drilling and abandonment of boreholes and monitoring wells; and

3. Interim and final remedial actions to remove or treat contaminants that have been released to the environment.

Site characterization and the remedial actions would be undertaken pursuant to applicable provisions of the Resource Conservation and Recovery Act (RCRA) and the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA). Some of the proposed actions could be located in the floodplains of Walnut, South Walnut, or Woman Creek or could affect wetlands.

Floodplain/wetland assessments for these actions would be prepared to be included in the National Environmental Policy Act (NEPA) documentation for the respective projects. For projects involving floodplains, a statement of findings would be issued separately or incorporated into the NEPA decision document. The statement would be published in the **Federal Register** when no Environmental Assessment (EA) or Environmental Impact Statement (EIS) is required.

DATES: Comments on the proposed action must be received by February 11, 1993.

ADDRESSES: All comments on this notice should be addressed to: Floodplain/Wetland Comments, c/o Beth Brainard, Office of Public Affairs, U.S. Department of Energy, Rocky Flats Office, Post Office Box 928, Golden, California 80402–0928, Telephone: (303) 966–5993; FAX comments to: (303) 966–6633.

FOR FURTHER INFORMATION CONTACT: Information on general DOE floodplain/wetland environmental review requirements is available from: Carol M. Borgstrom, Director, Office of NEPA Oversight, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585, Telephone (202) 586–4600 or (800) 472–2756.

SUPPLEMENTARY INFORMATION: DOE proposes to carry out site characterization as well as remedial/corrective actions, some of which would be located within floodplain or wetlands, at the RFP. The proposed actions include:

1. Collection of samples for environmental monitoring, site characterization, and treatability studies to better understand the nature of the environment around the RFP and to identify possible releases of contaminants or movement of contaminants already released to the environment. Environmental monitoring would occur throughout the site and would continue for the foreesable future. Site characterization is tied chiefly to Remedial Investigations/RCRA Facility Investigations (RI/RFIs) under CERCLA and RCRA and would be performed for each of the 16 operable units (OUs).

The following types of activities could occur in a floodplain or wetland: (a) Sampling air, surface water, ground water, sediments, surface and deeper soils, and terrestrial and aquatic biota, and measuring meteorological characteristics; (b) drilling boreholes to

obtain soil/geological samples with some of the boreholes completed as ground water monitoring wells; (c) digging soil test pits by hand or backhoe, (d) taking a variety of noninvasive surveys, such as radiological surveys; (e) taking invasive surveys (such as with soil penetrometers and similar devices); and (f) conducting underground tests (such as aquifer pump, tracer geophysical log, vertical seismic profile and seismic tests). Because the remaining RI/RFI field work to be done at the RFP is in OUs that consist mostly of upland areas, only a few sampling locations, other than for surface water and sediment and a very small proportion of the boreholes/wells and soil test pits, are expected to be in floodplains or wetlands.

2. Drilling or abandonment of boreholes and monitoring wells. Drilling new boreholes and monitoring wells involves driving a drilling rig to the designated site and drilling a hole, usually within a day. Wells are typically 4 to 6 inches in diameter. It is possible, but unlikely, that some of those could be in wetlands. Where a drilling site can be relocated outside of a wetland area while still maintaining the integrity of the sampling program, the drill site will be relocated. Travel within floodplains will be restricted to established roads and tracks where they are available.

Abandoning a well typically involves removal of all foreign material from the well. This includes the existing bentonite grout, the bentonite seal, a silica-sand filter, and well casing. Casing can be removed by pulling it out of the well, destroying the casing in the hole and removing the pieces, or over-drilling or over-coring. Each of these methods involves driving a drilling rig to the well site. Once in the field, it may be discovered that some casings are not removable due to well depth, casing condition, or other factors. In these situations, the well casing and possibly the protective surface casing (a larger diameter pipe surrounding the upper portion of the well casing) will be left in place. Abandonment will be accomplished in this manner only when absolutely necessary.

If the casing is removed, regardless of the removal method used, the resulting hole is reamed to the original construction depth and diameter to remove any remaining annular material and debris. The borehole is then filled with bentonite grout. Wells whose casing is not removed would be abandoned by filling the casing with bentonite grout. The well casing and protective casing would be cut off below the ground surface.

A concrete pad would be poured at all well abandonment locations to provide a surface seal. A metal cap showing the well identification number and the date of abandonment would be anchored to the concrete slab. Abandonment of a well would take 1 to 2 days, depending on the method used and the depth of the well.

3. Construction and operation of interim and final remedial/corrective actions based on the results of the RI/RFIs now being conducted or planned. These proposed actions may consist of in-situ treatment, bioremediation, ground water treatment, surface water treatment, soil treatments, or soil excavation. While remedial actions are expected to be constructed outside floodplains or wetlands, parts of such projects (particularly water collection devices) could be located within floodplains or could affect wetlands.

Maps showing all floodplain or wetland areas potentially disturbed by the proposed activities are available from the RFO (see **ADDRESSES** above). Floodplain/wetland assessments for each individual action will be prepared as part of the integrated NEPA/CERCLA/RCRA documentation for the respective actions. For projects involving floodplains, a Statement of Findings, required by 10 CFR part 1022, would be issued separately or included in the NEPA decision document when the floodplain assessments have been completed and prior to taking the action. The statement would be published in the **Federal Register** when no EA or EIS is required.

Paul D. Grimm,

Principal Deputy Assistant Secretary for Environmental Restoration and Waste Management.

[FR Doc. 93–2012 Filed 1–26–93; 8:45 am]

BILLING CODE 6450–01–M

Federal Energy Regulatory Commission

[Docket Nos. EL93–15–000, et al.]

Massachusetts REFUSETECH, Inc., et al.; Electric Rate, Small Power Production, and Interlocking Directorate Filings

January 19, 1993.

Take notice that the following filings have been made with the Commission:

1. Massachusetts REFUSETECH, Inc.

[Docket Nos. EL93–15–000 and ES93–19–000]

Take notice that on January 15, 1993, Massachusetts Refusetech, Inc. ("MRI") submitted for filing an application requesting disclaimer of jurisdiction under section 203 of the Federal Power Act, and grant of blanket approval under section 203 of the Federal Power Act and part 34 of the Commission's regulations for the issuances of securities or assumptions of liability by MRI, or authorization under section 204 and part 34 for issuances or assumptions with respect to the proposed refinancing of the trash-to-energy facility owned and operated by MRI in North Andover, Massachusetts. The refinancing will involve issuance of refunding bonds which will be secured by, among other items, a pledge of revenues from the facility and a mortgage and security interest in the facility.

Comment date: January 29, 1993, in accordance with Standard Paragraph E at the end of this notice.

2. Northern States Power Co. (Minnesota) and Northern States Power Co. (Wisconsin)

[Docket No. EL93–12–000]

Take notice that on January 5, 1993, Northern States Power Company (Minnesota) (NSP(M)) and Northern States Power Company (Wisconsin) (NSP(W) tendered for filing a request of the Commission's fuel clause regulations. The waiver is sought to obtain Commission approval of recovery through NSP(M)'s and NSP(W)'s fuel adjustment clauses of certain anticipated nuclear fuel fabrication contract termination expenses.

Comment date: February 2, 1993, in accordance with Standard Paragraph E at the end of this notice.

3. Georgia Power Co.

[Docket No. EL93–13–000]

Take notice that on December 31, 1992, Georgia Power Company (Georgia Power) tendered for filing a revised tariff sheet to its FERC Electric Tariff, Original Volume No. 1 (full requirements service) and a petition for waiver of the Commission's fuel adjustment clause regulations.

Georgia Power states that its filing is necessary to permit it to recover from its full requirements wholesale customers an appropriate share of the cost of terminating a long-term coal supply agreement. Georgia Power states that its purchase of replacement coal at more favorable prices will produce cumulative savings to its customers in excess of the cumulative amortization of buyout costs which the Company proposes to recover as fuel costs through the fuel cost recovery mechanisms of its tariff.

Georgia Power seeks waiver of the Commission's notice requirement to

permit an effective date of January 1, 1993 for the revised tariff sheet.

Georgia Power states that it has served copies of its filing on its two full requirements customers.

Comment date: February 2, 1993, in accordance with Standard Paragraph E at the end of this notice.

4. Montaup Electric Co.

[Docket No. ER93–56–001]

Take notice that on January 4, 1993, Montaup Electric Company (Montaup) tendered for filing a compliance filing reflecting the settlement rate reduction in its forecast billing rate under the PCAC for 1993. The compliance filing is made in accordance with the Commission's order issued on December 28, 1992 in the captioned docket. Montaup requests that the Commission issue an order accepting the compliance filing by February 10, 1993 when Montaup's next M-rate bills will be issued.

Comment date: February 2, 1993, in accordance with Standard Paragraph E at the end of this notice.

5. Puget Sound Power & Light Co.

[Docket No. ER93–121–000]

Take notice that on December 18, 1992, Puget Sound Power & Light Company (Puget) tendered for filing additional information on the filed service agreements under Electric Tariff Original Volume Number 3.

Comment date: February 2, 1993, in accordance with Standard Paragraph E at the end of this notice.

6. Niagara Mohawk Power Corp.

[Docket No. ER93–313–000]

Take notice that on January 11, 1993, Niagara Mohawk Power Corporation (Niagara Mohawk) tendered for filing a Power Sales Tariff which provides for sales of system capacity and/or energy or resource capacity and/or energy. The proposed Tariff requires interested purchasers to enter into a service agreement with Niagara Mohawk before transactions may commence under the Tariff.

Niagara Mohawk requests that its Tariff be accepted for filing and allowed to become effective in accordance with its terms as specified. Information filed in support of the Tariff includes cost support for Niagara Mohawk's tariff ceiling rates, and pricing terms that allow for the capacity and energy changes to be pro-rated for the duration of each sale. A copy of this filing was served upon the New York State Public Service Commission.

Comment date: February 2, 1993, in accordance with Standard Paragraph E at the end of this notice.

7. Northeast Utilities Service Co.

[Docket Nos. ER93–219–000 ER93–222–000]

Take notice that on January 11, 1993, Northeast Utilities Service Company (NUSCO) tendered for filing supplemental information regarding various interconnection agreements of The Connecticut Light and Power Company and Western Massachusetts Electric Company.

NUSCO states that the information was filed in response to a request from the Commission.

NUSCO states that copies of this information have been mailed or delivered to each of the affected parties.

Comment date: February 2, 1993, in accordance with Standard Paragraph E at the end of this notice.

8. Niagara Mohawk Power Corp.

[Docket No. ER93–139–000]

Take notice that on January 6, 1993, Niagara Mohawk Power Corporation (Niagara Mohawk), tendered for filing an amendment to its filing dated November 10, 1992 regarding a proposed change to Niagara Mohawk Rate Schedule No. 171, an agreement between Niagara Mohawk and Selkirk Cogen Partners, L.P. (Selkirk).

Comment date: February 2, 1993, in accordance with Standard Paragraph E at the end of this notice.

9. Florida Power Corp.

[Docket No. ER93–314–000]

Take notice that Florida Power Corporation (Florida Power), on January 11, 1993, filed a request for approval of a revised effective date of the service agreement with Sebring Utilities (SUC). The service agreement was accepted for filing in Commission Docket No. ER93–136–000 on December 7, 1992, to become effective January 1, 1992. Florida Power requests that the service agreement be allowed to become effective as of September 1, 1991.

Comment date: February 2, 1993, in accordance with Standard Paragraph E at the end of this notice.

10. Florida Power Corp.

[Docket No. ER93–310–000]

Take notice that on January 6, 1993 Florida Power Corporation (Florida Power) filed a contract for the provision of interchange service between itself and the City of Vero Beach. Florida Power requests that the contract become effective on March 8, 1993, which is 60 days after the contract was tendered for filing.

Florida Power states that a copy of the filing has been posted as required by the Commission's regulations, and a copy has been mailed to the customer affected by the filing and to the Florida Public Service Corporation.

Comment date: February 2, 1993, in accordance with Standard Paragraph E at the end of this notice.

11. Niagara Mohawk Power Corp.

[Docket No. ER93–315–000]

Take notice that Niagara Mohawk Power Corporation (Niagara Mohawk), on January 11, 1993, tendered for filing an agreement between Niagara Mohawk and Northeast Utility Services Company (NUSCO) dated January 6, 1993, providing for certain transmission services to NUSCO.

An effective date of March 12, 1993 (for the commencement of transmission and delivery) is proposed.

Copies of this filing were served upon NUSCO and the New York State Public Service Commission.

Comment date: February 2, 1993, in accordance with Standard Paragraph E at the end of this notice.

12. Northern States Power Co.

[Docket No. ER92–343–003]

Take notice that on January 5, 1993, Northern States Power Company submitted supplemental information to its Compliance Filing in the above-referenced docket.

Comment date: February 3, 1993, in accordance with Standard Paragraph E at the end of this notice.

13. Portland General Electric Co.

[Docket No. ER93–312–000]

Take notice that on January 11, 1993, Portland General Electric Company (PGE) tendered for filing an interim interconnection agreement between PGE, the Western Area Power Administration (WAPA), the Transmission Agency of Northern California (TANC), Pacificorp Electric Operations, an assumed name of Pacificorp (Pacificorp), and the Bonneville Power Administration (BPA).

Copies of this agreement have been served on the distribution list, as included in the filing.

Comment date: February 2, 1993, in accordance with Standard Paragraph E at the end of this notice.

14. Joe T. Ford

[Docket No. ID–2757–000]

Take notice that on January 6, 1993, Joe T. Ford (Applicant) tendered for filing a supplemental application under section 305(b) of the Federal Power Act to hold the following positions:

Chairman of the Board, President and Chief Executive Officer, ALLTEL Corporation

Director, Duke Power Company

Comment date: February 2, 1993, in accordance with Standard Paragraph E at the end of this notice.

15. Richard G. Reiten

[Docket No. ID–2756–000]

Take notice that on January 6, 1993, Richard G. Reiten (Applicant) tendered for filing a supplemental application under section 305(b) of the Federal Power Act to hold the following positions:

Director, West One Bank, Oregon

Director, West One Bank, Oregon, S.B.[1]

Director and President, Portland General Electric Company

Comment date: February 2, 1993, in accordance with Standard Paragraph E at the end of this notice.

16. Lockport Energy Associates, L.P.

[Docket No. QF88–378–005]

On January 12, 1993, Lockport Energy Associates, L.P. (Applicant), filed an application with the Federal Energy Regulatory Commission for a temporary waiver of the operating and efficiency standards pursuant to § 292.205(c) of the Commission's Regulations. No determination has been made that the submittal constitutes a complete filing.

The 167 MW topping-cycle cogeneration facility which is located in Lockport, New York consists of three combustion turbine generators, three separately-fired heat recovery boilers (HRBs) and a steam turbine generator. Thermal energy recovered from the facility is used for space heating and industrial processes by the Harrison Division of General Motors Corporation's assembly plant. The facility uses natural gas as its primary energy source. The Commission previously certified the facility as a qualifying cogeneration facility, Empire Energy-Niagara Cogeneration, Inc., 45 FERC ¶61,241 (1988). Applicant filed notices of self-recertification in Dockets QF88–378–001, QF88–378–002, QF88–378–003, and QF88–378–004.

Applicant states that the temporary waiver of operating and efficiency standards for calendar year 1992 is requested due to the limited generation of power without concurrent use of thermal output during the start-up and testing period.

Comment date: February 26, 1993, in accordance with Standard Paragraph E at the end of this notice.

[1] West One Bank, Oregon and West One Bank, Oregon S.B. are subsidiaries of West One Bancorp, a bank holding company, Boise, Idaho.

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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 93–1945 Filed 1–26–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket Nos. CP93–153–000, et al.]

Arkla Energy Resources, et al., Natural Gas Certificate Filings

Take notice that the following filings have been made with the Commission:

1. Arkla Energy Resources, a division of Arkla, Inc.

[Docket No. CP93–153–000]

January 15, 1993.

Take notice that on January 7, 1993, Arkla Energy Resources, a division of Arkla, Inc. (AER), 525 Main Street, Shreveport, Louisiana 71151, filed an application pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon a field sales service provided to Texas Gas Transmission Corporation under Rate Schedule XFS–31, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

AER states that there is no longer a need for this sales arrangement because the agreement between the parties has expired by its own terms, has been terminated by mutual agreement between the parties, and has not been utilized by the parties for several years.

Comment date: January 5, 1993, in accordance with Standard Paragraph F at the end of this notice.

2. Colorado Interstate Gas Co.

[Docket No. CP93–160–000]

January 15, 1993.

Take notice that on January 12, 1993, Colorado Interstate Gas Company (CIG), P.O. Box 1087, Colorado Springs, Colorado 80944, filed in Docket No. CP93–160–000 a request pursuant to §§ 157.205 and 157.211 of the Regulations under the Natural Gas Act for authorization to construct a new meter station, under the certificate issued in Docket No. CP83–21–000, 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.

CIG proposes to construct and operate the GRIMM II meter station located in Adams County, Colorado. CIG indicates that the meter station would be constructed pursuant to a request by Public Service Company of Colorado and would provide for deliverability of up to 45,000 Mcf of natural gas per day. CIG states that gas transported to the GRIMM II meter station would be used for the new Denver International Airport and local residential use. CIG estimates that the new meter station would cost $225,000.

Comment date: March 1, 1993, in accordance with Standard Paragraph G at the end of this notice.

3. Williams Natural Gas Co.

[Docket No. CP93–158–000]

January 15, 1993.

Take notice that on January 12, 1993, Williams Natural Gas Company (WNG), P.O. Box 3288, Tulsa, Oklahoma 74101, filed in Docket No. CP92–158–000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to abandon certain pipeline facilities in Kansas, under WNG's blanket certificate issued in Docket No. CP82–479–000, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

WNG proposes to abandon by sale to Western Resources, Inc. (Western Resources) approximately 1.6 miles of the Beloit 4-inch lateral located in Mitchell County, Kansas, and approximately 0.5 miles of the Tonganoxie 4-inch lateral located in Leavenworth County, Kansas. It is stated that the facilities proposed to be abandoned are located downstream of WNG's measuring facilities for deliveries to Western Resources and that WNG would benefit by no longer having responsibility for their maintenance. WNG states that the sale price for the two laterals would be $1,976. It is stated that the transfer of ownership would not cause any interruption or termination of service to any customers. It is asserted

that Western Resources has agreed to the sale.

Comment date: March 1, 1993, in accordance with Standard Paragraph G at the end of this notice.

4. ANR Pipeline Co.

[Docket No. CP93–151–000]

January 15, 1993.

Take notice that on January 7, 1993, ANR Pipeline Company (ANR), 500 Renaissance Center, Detroit, Michigan 48243, filed in Docket No. CP93–151–000 a request pursuant to §§ 157.205 and 157.212 of the Regulations under the National Gas Act for authorization to enhance an existing site, ANR's West Marinette Meter Station (West Marinette) for delivery to an existing customer, Wisconsin Public Service Corporation (WPS), under the certificate issued in Docket No. CP82–480–000, pursuant to section 7 of the National Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

ANR states that pursuant to a request from WPS for additional deliverability to serve a peaking turbine used for power generation, ANR proposes to expand West Marinette. ANR indicates that the proposed expansion would include a hot tap and associated measurement and flow control facilities. ANR estimates that the proposed expansion of West Marinette would cost $354,000.

Comment date: March 1, 1993, in accordance with Standard Paragraph G at the end of this notice.

5. Williams Natural Gas Co.

[Docket No. CP93–157–000]

January 19, 1993.

Take notice that on January 12, 1993, Williams Natural Gas Company (WNG), P.O. Box 3288, Tulsa, Oklahoma 74101, filed in Docket No. CP93–157–000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to abandon by reclaim and in place approximately 5.9 miles of 8-inch lateral pipeline and appurtenant facilities located in Bourbon County, Kansas and Vernon County, Missouri, and the transportation of gas through said facilities under WNG's blanket certificate issued in Docket No. CP82–479–000 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.

WNG states that the pipeline presently serves the Missouri Public Service Company (MoPub) Nevada town border. WNG further states that the condition of the pipeline would not allow WNG to provide the increased delivery pressure requested by MoPub. WNG asserts that it would construct a new pipeline, pursuant to its blanket construction authorization, to replace the abandoned pipeline and to enable it to meet MoPub's requirements.

The reclaim cost is estimated to be $105,093, with a salvage value of $10,834, it is stated.

Comment date: March 1, 1993, in accordance with Standard Paragraph G at the end of this notice.

6. Arkla Energy Resources

[Docket No. CP93–161–000]

January 19, 1993.

Take notice that on January 14, 1993, Arkla Energy Resources (AER), 525 Milam Street, P.O. Box 21734, Shreveport, Louisiana 71151, filed in Docket No. CP93–161–000, a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to abandon certain facilities in Arkansas, under the authorization issued in Docket No. CP82–384–000 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.

AER requests authority to abandon and remove two 217 horsepower (hp) rental compressor units installed temporarily on its Line JM–21, section 2, T4N, R2E to serve customers in St. Francis County, Arkansas. AER states that during the 1989/90 winter peak period, several communities, as well as several industrial customers served by Arkansas Louisiana Gas Company (ALG) experienced low pressure problems. It is stated that the low pressure problems experienced were due to extremely cold weather conditions and increased ALG demand in Arkansas. In order to alleviate the low pressure problems experienced like those in 1989/90, AER states that it installed a rental compressor unit during the 1990/91 peak winter period on its Line JM–21 in St. Francis County, Arkansas.[1] For the 1991/92 peak winter period, AER states that it installed two 217 hp compressor units. It is stated that these compressor units were also installed under AER's blanket certificate in Docket No. CP82–384–000 and will be reported in the 1992 Annual Report. AER states that the proposed abandonment and removal of these facilities will not result in the abandonment of any existing customers.

Comment date: March 1, 1993, in accordance with Standard Paragraph G at the end of this notice.

7. CNG Transmission Corp.

[Docket No. CP93–147–000]

January 19, 1993.

Take notice that on January 7, 1993, CNG Transmission Corporation (CNG), 445 West Main Street, Clarksburg, West Virginia 26301, filed in Docket No. CP93–147–000 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction of certain pipeline facilities in Pennsylvania and New York, 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 construct and operate approximately 15.1 miles of 24-inch pipeline extending from the Harrison Storage Pool in Potter County, Pennsylvania to the Woodhull Station in Steuben County, New York. CNG asserts that the proposed pipeline would interconnect the eastern and western branches of its system thereby increasing the flexibility of its system.

CNG further asserts that the proposed pipeline would enable it to more effectively manage storage inventories in its northern storage pools, preserving peaking capabilities and ultimately providing more reliable and efficient service out of storage.

CNG states that this increased system flexibility and efficiency would enable CNG to provide its unbundled services as contemplated by Order No. 636 while minimizing Operational Flow Order as they relate to storage operations.

CNG estimates the cost of the facilities to be $12,605,300, which would be financed from funds on hand or obtained from its parent company, Consolidated Natural Gas Company.

Comment date: February 9, 1993, 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

[1] It is stated that AER installed this compressor unit pursuant to its blanket certificate issued in Docket No. CP82–384–000 as reported in its 1991 Annual Report filed under Section 157.207 of the Regulations. AER states that this compressor unit was subsequently abandoned in Docket No. CP91–2278–000.

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 § 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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 93–1940 Filed 1–26–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. JD93–0232OT Texas–96]

Texas; NGPA Determination by Jurisdictional Agency Designating Tight Formation

January 21, 1993.

Take notice that on December 28, 1992, the Railroad Commission of Texas (Texas) submitted the above-referenced notice of determination pursuant to § 271.703(c)(3) of the Commission's regulations, that the L Sand member of the Vicksburg Formation underlying a portion of Hidalgo County, Texas, qualifies as a tight formation under section 107(b) of the Natural Gas Policy Act of 1978. The designated area, lying within Railroad Commission District 4, covers approximately 1170 acres in portions of the following areas of the Texas Gardens Subdivision:

Dionisio Ramirez .	A–563	Porcion 78.
Yldifonso Ramirez	A–584	Porcion 79.
Francisco Cantu ...	A–570	Porcion 80.

The notice of determination also contains Texas' findings that the referenced portion of the L Sand Member of the Vicksburg Formation, meets the requirements of the Commission's regulations set forth in 18 CFR part 271.

The application for determination is available for inspection, except for material which is confidential under 18 CFR 275.206, at the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426. Persons objecting to the determination may file a protest, in accordance with 18 CFR 275.203 and 275.204, within 20 days after the date this notice is issued by the Commission.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 93–1942 Filed 1–26–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. JD93–02859T Wyoming–38]

Wyoming; NGPA Determination by Jurisdictional Agency Designating Tight Formation

January 21, 1993.

Take notice that on January 8, 1993, the Wyoming Oil and Gas Conservation Commission (Wyoming) submitted the above-referenced notice of determination pursuant to § 271.703(c)(3) of the Commission's regulations, that the Baxter Formation underlying a portion of Sublette County, Wyoming, qualifies as a tight formation under section 107(b) of the Natural Gas Policy Act of 1978. The area of application covers approximately 160 acres described as the SE/4 of Section 20, Township 27 North, Range 113 West.

The notice of determination also contains Wyoming's and the Bureau of Land Management's findings that the referenced portion of the Baxter Formation meets the requirements of the Commission's regulations set forth in 18 CFR part 271.

The application for determination is available for inspection, except for material which is confidential under 18 CFR 275.206, at the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426. Persons objecting to the determination may file a protest, in accordance with 18 CFR 275.203 and 275.204, within 20 days after the date this notice is issued by the Commission.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 93–1943 Filed 1–26–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. PL93–2–000]

Prior Notice and Filing Requirements Under Part II of the Federal Power Act; Notice of Procedures for Technical Conference

January 19, 1993.

On December 9, 1992, the Commission issued a Notice of Technical Conference and Request for Comments.[1] Due to the number of requests for participation in the Technical Conference, the Commission has established the following procedural schedule.

The Conference will commence at 10 a.m. on January 28, 1993 in the Commission's meeting room, 9th Floor, 825 North Capitol Street, NE., Washington, DC 20426. The Conference will consist of four panels which will last approximately one hour each.[2] Each speaker will be given three minutes to make a presentation at the beginning of each panel. After all of the panelists have spoken, a question and answer period will follow. In cases where a group is represented by more than one speaker, the speakers together are limited to three minutes. A speaker representing more than one entity likewise will be limited to three minutes as well.

Linwood A. Watson, Jr.,

Acting Secretary.

Attachment A

10 a.m. Panel

Central Maine Power Company
  Arthur W. Adelberg
  John W. Gulliver
Boston Edison Company
Central Vermont Public Service Corp.
Eastern Utilities Associates
Northern States Power Company
El Paso Electric Company
Wisconsin Public Service Corporation

[1] 61 FERC ¶ 61,171 (1992).

[2] Attachment A designates which participants are in each panel and the time each panel is to begin.

Wisconsin Electric Power Company
George F. Bruder
Potomac Electric Power Company
Allen C. Barringer
Energy Services, Inc.
J.A. Bouknight, Jr.
Douglas L. Berresford
Edison Electric Institute
Edward H. Comer

11 a.m. Panel

New England Power Company
Paige Graening
Northeast Utilities Service Company
Frederic Lee Klein
John C. Ash
Barton Village, Inc.
The Village of Enosburg Falls Water & Light Department
The Village of Orleans, Vermont
The Village of Swanton, Vermont
Frances E. Francis
Ben Finkelstein
Consolidated Edison Company of New York, Inc.
Peter Garam

1 p.m. Panel

Jersey Central Power and Light Company
Metropolitan Edison Company
Pennsylvania Electric Company
James B. Liberman
Douglas E. Davidson
Long Island Lighting Company
Robert G. Grassi
Entergy Services, Inc.
Floyd L. Norton, IV
William M. Dudley
Portland General Electric Company
Leonard A. Girard
Randall W. Childress
Arlene Pianko Groner
New York State Electric & Gas Corporation
Niagara Mohawk Power Corporation
Mathew J. Piccardi
Kenneth M. Jasinski
Stuart A. Caplan

2 p.m. Panel

Washington Water Power Company
Steven V. Fisher
Thomas A. Johns
Southwestern Public Service Company
Alan J. Statman
Ronald N. Carroll
Montana Power Company
W. Wayne Harper
PacifiCorp Electric Operations
Gerald D. Miller
Marcus Wood

[FR Doc. 93–1924 Filed 1–26–93; 8:45 am]
BILLING CODE 6717–01–M

[Docket No. RP93–16–000]

El Paso Natural Gas Co.; Technical Conference

January 21, 1993.

In the Commission's order issued on November 30, 1992, in the above-captioned proceeding, the Commission held that the filing raises issues for which a technical conference is to be convened. The conference to address the issues has been scheduled for Thursday, January 28, 1993, at 10 a.m. in a room to be designated at the offices of the Federal Energy Regulatory Commission, 810 First Street, NE., Washington, DC 20426.

All interested persons and Staff are permitted to attend.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 93–1941 Filed 1–26–93; 8:45 am]
BILLING CODE 6717–01–M

[Docket Nos. RP92–229–000, RP89–137–000, et al.]

Northwest Pipeline Corp.; Settlement Conference

January 21, 1993.

Pursuant to the Commission's order issued October 29, 1992 (61 FERC ¶ 61,126), an informal conference will be held to explore settlement of issues raised in Docket No. RP92–229–000. This is a continuation of the conference held January 14, 1993. The conference may also involve discussion of issues in Northwest Pipeline Corporation Docket No. RP89–137–000, *et al.* (*See,* order issued September 24, 1992, 60 FERC ¶ 61,286). All parties should come prepared to discuss settlement, and the parties should be represented by principals who have the authority to commit to a settlement. The conference will be held on Thursday, January 28, 1993, beginning at 10 a.m. in room 9306 of the offices of the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426.

All interested persons and Staff are permitted to attend.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 93–1944 Filed 1–26–93; 8:45 am]
BILLING CODE 6717–01–M

[Docket No. ES93–18–000]

Odgen Haverhill Associates; Notice of Application

January 15, 1993.

Take notice that on January 7, 1993, Odgen Haverhill Associates (Odgen Haverhill) filed an application with the Federal Energy Regulatory Commission under section 204 of the Federal Power Act requesting the Commission to issue a blanket approval of all future issuances of securities and assumptions of obligations or liabilities.

Odgen Haverhill, a general partnership comprised of two general partners, Odgen Martin Systems of Haverhill, Inc. and Haverhill Power Inc., owns and operates a 43 MW facility in Haverhill, Massachusetts. The Commission previously certified the facility as a qualifying small power production facility. Because the facility has a power production capacity greater than 30 MW, it is subject to the provisions of the Federal Power Act as a public utility.

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 February 8, 1993. Protests will be considered by the Commission 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 must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 93–1925 Filed 1–26–93; 8:45 am]
BILLING CODE 6717–01–M

Office of Fossil Energy

[FE Docket No. 92–146–NG]

AGE Marketing Company; 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 AGE Marketing Company to export up to 100 Bcf of natural gas to Mexico over

a two-year period beginning on the date of first delivery.

A copy of this order is available for inspection and copying in the Office of Fuels Programs Docket Room, 3F–056, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–9478. The docket room is open between the hours of 8 a.m. and 4:30 p.m. Monday through Friday, except Federal holidays.

Issued in Washington, DC, January 21, 1993.

Charles F. Vacek,

Deputy Assistant Secretary for Fuels Programs, Office of Fossil Energy.

[FR Doc. 93–2011 Filed 1–26–93; 8:45 am]

BILLING CODE 6450–01–M

ENVIRONMENTAL PROTECTION AGENCY

[OPPT–51813; FRL–4181–6]

Certain Chemicals; Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in the final rule published in the **Federal Register** of May 13, 1983 (48 FR 21722). This notice announces receipt of 36 such PMNs and provides a summary of each.

DATES: Close of review periods:

P 93–181, February 21, 1993.

P 93–182, 93–183, 93–184, 93–185, 93–186, 93–187, 93–188, 93–189, 93–190, February 22, 1993.

P 93–191, 93–192, 93–193, 93–194, 93–195, 93–196, 93–197, 93–198, 93–199, 93–200, 93–201, 93–202, February 24, 1993.

P 93–203, 93–204, 93–205, February 27, 1993.

P 93–206, 93–207, 93–208, 93–209, 93–210, 93–211, February 28, 1993.

P 93–212, 93–213, 93–214, March 1, 1993.

P 93–215, 93–216, March 2, 1993.

Written comments by:

P 93–181, January 22, 1993.

P 93–182, 93–183, 93–184, 93–185, 93–186, 93–187, 93–188, 93–189, 93–190, January 23, 1993.

P 93–191, 93–192, 93–193, 93–194, 93–195, 93–196, 93–197, 93–198, 93–199, 93–200, 93–201, 93–202, January 25, 1993.

P 93–203, 93–204, 93–205, January 28, 1993.

P 93–206, 93–207, 93–208, 93–209, 93–210, 93–211, January 29, 1993.

P 93–212, 93–213, 93–214, January 30, 1993.

P 93–215, 93–216, January 31, 1993.

ADDRESSES: Written comments, identified by the document control number "(OPPT–51813)" and the specific number should be sent to: Document Processing Center (TS–790), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 401 M St., SW., Rm. 201ET, Washington, DC, 20460 (202) 260–3532.

FOR FURTHER INFORMATION CONTACT: Susan B. Hazen, Director, Environmental Assistance Division (TS–799), Office of Pollution Prevention and Toxics, Environmental Protection Agency, Rm. E–545, 401 M St., SW., Washington, DC, 20460 (202) 554–1404, TDD (202) 554–0551.

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the nonconfidential version of the submission provided by the manufacturer on the PMNs received by EPA. The complete nonconfidential document is available in the TSCA Public Docket Office, NE–G004 at the above address between 8 a.m. and noon and 1 p.m. and 4 p.m., Monday through Friday, excluding legal holidays.

P 93–181

Manufacturer. Reichhold Chemicals, Inc.

Chemical. (G) Blocked polyisocyanate.

Use/Production. (G) Adhesion promoter. Prod. range: Confidential.

P 93–182

Manufacturer. Ciba-Geigy Corporation.

Chemical. (G) Formaldehyde, polymer with (chloromethyl)oxirane and methylphenol, reaction products with acrylic acid and an anhydride.

Use/Production. (S) Resin component of solder mask for printed wiring board production. Prod. range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 1,800 mg/kg species (rat). Acute dermal toxicity: LD50 > species (rabbit). Eye irritation: slight species (rabbit). Mutagenicity: positive. Skin irritation: slight species (rabbit).

P 93–183

Manufacturer. Confidential.

Chemical. (G) Polyester adipate.

Use/Production. (S) PVC and rubber (Plasticizer). Prod. range: Confidential.

P 93–184

Manufacturer. Confidential.

Chemical. (G) Alkylamino.

Use/Production. (G) Dispersive use. Prod. range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 > 5 g/kg species (rat). Acute dermal toxicity: LD50 > 2 g/kg species (rabbit). Static acute toxicity: time LC50 96H > 220 mg/l species (rainbow trout). Eye irritation: none species (rabbit). Skin irritation: negligible species (rabbit). Mutagenicity: negative.

P 93–185

Manufacturer. Confidential.

Chemical. (G) Alkylamino.

Use/Production. (G) Dispersiv use. Prod. range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 > 5 g/kg species (rat). Acute dermal toxicity: LD50 > 2 g/kg species (rabbit). Static acute toxicity: time LC50 96H > 220 mg/l species (rainbow trout). Eye irritation: none species (rabbit). Skin irritation: negligible species (rabbit). Mutagenicity: negative.

P 93–186

Manufacturer. Confidential.

Chemical. (G) Alkylamino.

Use/Production. (G) Dispersiv use. Prod. range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 > 5 g/kg species (rat) acute dermal toxicity: LD50 > 2 g/kg species (rabbit). Static acute toxicity: time LC50 96H > 220 mg/l species (rainbow trout). Eye irritation: none species (rabbit). Skin irritation: negligible species (rabbit). Mutagenicity: negative.

P 93–187

Manufacturer. Confidential.

Chemical. (G) Alkylamino.

Use/Production. (G) Dispersive use. Prod. range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 > 5 g/kg species (rat). Acute dermal toxicity: LD50 > 2 g/kg species (rabbit). Eye irritation: none species (rabbit). Mutagenicity: negative. Static acute toxicity: time LC50 96H > 220 mg/l species (rainbow trout). Skin irritation: negligible species (rabbit).

P 93–188

Manufacturer. Confidential.

Chemical. (G) Alkylamino.

Use/Production. (G) Dispersive use. Prod. range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 > 5 g/kg species (rat). Acute dermal toxicity: LD50 > 2 g/kg species (rabbit). Static acute toxicity: time LC50 96H > 220 mg/l species (rainbow trout). Eye irritation: none species (rabbit). Skin irritation: negligible species (rabbit). Mutagenicity: negative.

P 93–189

Manufacturer. Confidential.

Chemical. (G) Alkylamino.

Use/Production. (G) Dispersive use. Prod. range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 > 5 g/kg species (rat). Acute dermal toxicity: LD50 > 2 g/kg species (rabbit). Static acute toxicity: time LC50 96H > 220 mg/l species (rainbow trout). Eye irritation: none species (rabbit). Skin irritation: negligible species (rabbit). Mutagenicity: negative.

P 93–190

Manufacturer. Confidential.

Chemical. (G) Alkylamino.

Use/Production. (G) Dispersive use. Prod. range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 > 5 g/kg species (rat). Acute dermal toxicity: LD50 > 2 g/kg species (rabbit). Static acute toxicity: time LC50 96H > 220 mg/l species (rainbow trout). Eye irritation: none species (rabbit). Skin irritation: negligible species (rabbit). Mutagenicity: negative.

P 93–191

Importer. Confidential.

Chemical. (G) 2-Propenoic acid, reaction product with tetrakisol.

Use/Production. (G) Polymer component for speciality industrial coating, inks and adhesive. Prod. range Confidential.

P 93–192

Manufacturer. PCR, Inc.

Chemical. (S) Poly(ethylene-1,3-dimethyldisiloxane)copolymer-ethoxy endblocked.

Use/Production. (S) Component in masonary water repellents (solvent and water based) applied by roller or by spraying. Prod. range: 25,000 kg/yr.

P 93–193

Manufacturer. Arco Chemical Company.

Chemical. (S) Propanol,(2-(1,1-dimethylethoxy)methylethoxy).

Use/Production. (S) Solvent for coating and cleaning. Prod. range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 2.6 g/kg species (rat). Acute dermal toxicity: LD50 2.0 g/kg. Eye irritation: none species (rabbit). Skin irritation: negligible species (rabbit).

P 93–194

Manufacturer. Confidential.

Chemical. (G) Amine modified prepolymer.

Use/Production. (G) Industrial sealant. Prod. range: Confidential.

P 93–195

Manufacturer. Confidential.

Chemical. (G) Amine modified prepolymer.

Use/Production. (G) Industrial sealant. Prod. range: Confidential.

P 93–196

Manufacturer. Confidential.

Chemical. (G) Amine modified prepolymer.

Use/Production. (G) Industrial sealant. Prod. range: Confidential.

P 93–197

Manufacturer. Confidential.

Chemical. (G) Amine modified prepolymer.

Use/Production. (G) Industrial sealant. Prod. range: Confidential.

P 93–198

Manufacturer. Confidential.

Chemical. (G) Amine modified prepolymer.

Use/Production. (G) Industrial sealant. Prod. range: Confidential.

P 93–199

Manufacturer. Confidential.

Chemical. (G) Amine modified prepolymer.

Use/Production. (G) Industrial sealant. Prod. range: Confidential.

P 93–200

Manufacturer. Confidential.

Chemical. (G) Sodium zirconium phosphate derivate.

Use/Production. (G) Additive for resin. Prod. range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 2,000 mg/kg species (rat). Skin irritation: negligible species (rabbit). Mutagenicity: negative.

P 93–201

Importer. Mitsui & Co. (USA), Inc.

Chemical. (S) Magnesium aluminum zinc hydroxy arbonate(hydrotalcite-like compound).

Use/Import. (S) Heat stabilizer for PVC and neutralizer for acids in many polymers. Import range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 15.0 mg/kg species (rat). Eye irritation: slight species (rabbit). Skin irritation: slight species (rabbit).

P 93–202

Importer. Mitsui & Co. (USA), Inc.

Chemical. (S) Magnesium aluminum zinc hydroxy perchloric carbonate.

Use/Import. (S) Heat stabilizer for PVC and neutralizer for halogen and acids in many polymers. Import range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 15.0 mg/kg species (rat). Mutagenicity: negative.

P 93–203

Manufacturer. The C. P. Hall Company.

Chemical. (S) Hexanedioic acid; 2,2-Dimethyl,1,3-propanediol; benzencarboxylic acid; dodecanoic acid.

Use/Production. (G) Plasticizer. Prod. range: Confidential.

P 93–204

Manufacturer. FMC Corporation.

Chemical. (G) Nitrophenyl-substituted triazolinone.

Use/Production. (G) Chemical intermediate. Prod. range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 > 500 mg/kg species (rat). Acute dermal toxicity: LD50 > 200 mg/kg species (rabbit). Mutagenicity: positive.

P 93–205

Importer. Confidential.

Chemical. (G) Organotin compound.

Use/Import. (G) Dispersive use as catalyst for polymerization of olefins catalyst remains in the polymer. Import range: Confidential.

P 93–206

Manufacturer. Minnesota Mining & Manufacturing Company.

Chemical. (G) Methyl methacrylate/ethyl acrylate based polymer.

Use/Import. (G) Dispersive use as catalyst for polymerization of

P 93–207

Manufacturer. Reichhold Chemicals, Inc.

Chemical. (G) Alkyl polyether with alkenedioic anhydride.

Use/Production. (S) Captive intermediate. Prod. range: Confidential.

P 93–208

Manufacturer. Reichhold Chemicals, Inc.

Chemical. (G) Carboxylated styrene-butadiene copolymer latex.

Use/Production. (G) Thickener compound. Prod. range: Confidential.

P 93–209

Manufacturer. Reichhold Chemicals, Inc.

Chemical. (G) Substituted phenol ester.

Use/Production. (S) Captive intermediate. Prod. range: Confidential.

P 93–210

Manufacturer. Reichhold Chemicals, Inc.

Chemical. (G) Carboxylated styrene-butadiene copolymer latex.

Use/Production. (G) Thickener compound. Prod. range: Confidential.

P 93–211

Manufacturer. Uniroyal Chemical Company.

Chemical. (G) PPDI polyester prepolymer.

Use/Production. (G) Dispersive use industrrial products open nondispersive use machine components. Prod. range: Confidential.

P 93–212

Importer. Confidential.

Chemical. (G) Aromatic amino polyol.

Use/Import. (S) Component of polyurethane foam insulation. Import range: Confidential.

P 93–213

Importer. Confidential.

Chemical. (G) Aromatic amino polyol.

Use/Import. (S) Component of polyurethane foam insulation. Import range: Confidential.

P 93–214

Importer. Wacker Chemicals (USA), Inc.

Chemical. (S) Calcium, bis(2,4-pentanedionato)-.

Use/Import. (G) Plastic additive. Import range: Confidential.

Toxicity Data. Static acute toxicity: time LC50 48H > 128.0 mg/l species (golden orfe). Skin irritation: negligible species (rabbit). Mutagenicity: negative.

P 93–215

Manufacturer. Confidential.

Chemical. (G) Organic acid ester, alcohol alkoxylated.

Use/Production. (G) Textile fiber processing lubricant component. Prod. range: Confidential.

P 93–216

Importer. Confidential.

Chemical. (G) *A*-Hydro-*w*-hydroxy poly (oxy-1,4-butanediyl),polymer with 2-propenoic acid 2-hydroxylethyl ester and diisocyanate.

Use/Production. (G) Polymer additive for industrial inks, and coatings. Prod. range Confidential.

Dated: January 19, 1993.

Frank V. Caesar,

Acting Director, Information Management Division, Office of Toxic Substances.

[FR Doc 93–1987 Filed 1–26–93; 8:45 am]

BILLING CODE 6560–50–F

FEDERAL COMMUNICATIONS COMMISSION

Public Information Collections Approved by Office of Management and Budget

The Federal Communications Commission (FCC) has received Office of Management and Budget (OMB) approval for the following public information collections pursuant to the Paperwork Reduction Act of 1980, Public Law 96–511. For further information contact Shoko B. Hair, Federal Communications Commission, (202) 632–6934.

OMB Control No.: 3060–0529.

Title: Implementation of the Cable Television Consumer Protection and Competition Act of 1992: Cable TV System Operators Rate Structure Questionnaire.

Expiration Date: 03/15/93.

Description: Pursuant to Commission Order, FCC 92–545, certain cable system operators must complete and file a rate structure questionnaire by January 22, 1993 concerning the rates they charge, competition in their franchise areas, and other system characteristics. The information will be used by the Commission to consider the rates of cable systems subject to effective competition. It will also be used to evaluate the feasibility with using a benchmark approach to regulatory basic tier cable rate and cable programming services rates and to determine the appropriate level of benchmark rates. These data will aid us in developing reporting requirements concerning rates of cable systems as prescribed by the Cable Act of 1992.

OMB Control No.: 3060–0150.

Title: Public Mobile Service—Part 22.

Expiration Date: 11/30/94.

Description: Part 22 contains the technical and legal requirements for radio stations operating in the Public Mobile Services (PMS). General requirements under part 22 are contained in subparts B, C and D. Miscellaneous requirements are found in subpart E. Special requirements for each service are provided in subparts G, H, K, L, and M. Special requirements for developmental authorizations are provided in subpart F. The information requested under part 22 is used by the Commission staff in carrying out its duties as set forth in sections 308 and 309 of the Communications Act of 1934, as amended, to determine the technical, legal and other qualifications of applicants to operate a station in the public mobile service. The information is also used to determine whether grant of an application will serve the public interest, convenience and necessity. The staff also uses this information to ensure that applicants and licensees comply with the ownership and transfer restrictions imposed by section 310 of the Act.

OMB Control No.: 3060–0515.

Title: Miscellaneous and Specialized Common Carrier Annual Letter (Section 43.21(d)).

Expiration Date: 09/30/95.

Description: Each miscellaneous common carrier with operating revenues over $100 million for the calendar year must file a letter showing the company's operating revenues for that year and the value of its total communications plant at the end of the year. The information is used by staff members to regulate and monitor the telephone industry and by the public to analyze the industry.

OMB Control No.: 3060–0298.

Title: Tariffs (Other Than Tariff Review Plan).

Amendments of Part 69 of the Commission's Rules Relating to the Creation of Access Charge Subelements for Open Network Architecture; Policy and Rules Concerning Rates for Dominant Carriers, Memorandum Opinion and Order on Second Further Reconsideration, CC Docket Nos. 89–79 and 87–313.

Expiration Date: 10/31/94.

Description: The Commission clarified and modified the cost support required to tariff new services offered by price cap local exchange carriers. First, in cases where a LEC develops a lower-cost version of an existing service, the Commission clarified that the LEC may price that new service at any level below the price of the existing service. Second, the Commission modified its rules so that they no longer require LECs to satisfy the net revenue test as part of the cost showing for new services. The information collected through a carrier's tariff is used by the Commission to determine whether the services offered are just and reasonable as the Communications Act of 1934, as amended, requires. The tariffs and any supporting documentation are examined in order to determine if the supporting documentation are examined in order to determine if the services are offered in a just and reasonable and nondiscriminatory manner.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 93–1964 Filed 1–26–93; 8:45 am]

BILLING CODE 6712–01–M

[CC Docket No. 90–337, Phase II; FCC 92–496]

International Accounting Rates

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: On November 5, 1992, the Commission adopted a Second Report and Order establishing benchmark settlement rates for Europe, Asia, and other regions, and requiring U.S. carriers to file reports by January 1, 1993, and January 1, 1994, describing

their success in negotiating settlement rates within our benchmarks with the European and Asian countries. The Commission also requests carriers to provide additional information in their reports concerning their progress in negotiating lower accounting rates with countries outside the European and Asian regions. Further, the Commission continues to require proportionate return traffic and equal division of tolls, and declines, at this time, to condition section 214 authorizations as a means of placing downward pressure on accounting rates.

EFFECTIVE DATE: April 27, 1993.

FOR FURTHER INFORMATION CONTACT: Teresa Marrero, Attorney, Common Carrier Bureau, (202) 632–3214.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order adopted November 5, 1992, and released November 27, 1992. The full text of this Commission decision is available for inspection and copying during normal business hours in the Federal Communications Commission Reference Center, room 239, 1919 M Street NW., Washington, DC 20036. The complete text of this decision also may be purchased from the Commission's copy contractor, Downtown Copy Center, (202) 452–1422, 1114 21st Street NW., Washington, DC 20036.

Paperwork Reduction Act

The required filings will not create any undue burden on the public.

Summary of Second Report and Order

The Report and Order adopts benchmark settlement rates for Europe at $0.23–$0.39 per minute, and for Asia and other regions at $0.39–$0.60 per minute. The benchmark figures represent conservative estimates of an appropriate range for settlement rates, based on the underlying costs to terminate international calls. The order also requires that the five U.S. international facilities-based carriers that generated over $25 million in international message telephone service revenues in 1991 file progress reports by January 1, 1993, and January 1, 1994. These reports should indicate the carriers' success in bringing their settlement rates within the Commission's targeted ranges for Europe and Asia. The Commission also requests that these reports include any information U.S. carriers may have on accounting rate reductions for countries outside of the European and Asian regions. In addition, the Report and Order requests that carriers provide additional information in their reports concerning their progress in negotiating lower settlement rates with countries outside the European and Asian regions. In the order, the Commission also determines that U.S. carriers should continue to comply with the traditional International Settlements Policy principles of proportionate allocation of return traffic and equal division of tolls, and that no additional conditions to Section 214 authorizations should be imposed, at this time, as a means of facilitating lower accounting rates.

Ordering Clauses

Accordingly, *it is ordered* that, pursuant to 47 U.S.C. 1, 4, 201–205, 211, 215, 218–220, and 303, AT&T, MCI, US Sprint, TRT/FTC Communications, and GTE Hawaiian shall file with the Common Carrier Bureau, Chief, International Policy Division, progress reports by January 1, 1993, and by January 1, 1994, containing the information detailed in paragraph 25 of the order.

It is further ordered that, pursuant to sections 201–205, we adopt benchmark settlement rates for Europe at $0.23–$0.39 per minute and $0.39–$0.60 for Asia and all other regions.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 93–1660 Filed 1–26–93; 8:45 am]

BILLING CODE 6712–01–M

FEDERAL MARITIME COMMISSION

Agreement(s) Filed; Jacksonville Port Authority, et al.

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 800 North Capitol Street, NW., 9th Floor. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in § 572.603 of title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 224–200555–001.

Title: Jacksonville Port Authority/ Trailer Bridge Company, Inc.

Parties: The Jacksonville Port Authority Trailer Bridge Company, Inc.

Synopisis: The modification amends the basic Agreement to reflect the new name of Trailer Bridge Company, Inc., to Allen Freight Trailer Bridge, Inc., and makes certain adjustments to the rates and charges for rental, throughput and dockage.

Dated: January 21, 1993.

By Order of the Federal Maritime Commission.

Joseph C. Polking,

Secretary.

[FR Doc. 93–1912 Filed 1–26–93; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

Alpha-Omega Holding Company; Formation of, Acquisition by, or Merger of Bank Holding Companies

The company listed in this notice has applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that application or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Comments regarding this application must be received not later than February 19, 1993.

A. Federal Reserve Bank of Minneapolis (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. Alpha-Omega Holding Company, Victor, Montana; to become a bank holding company by acquiring 84.20 percent of the voting shares of Farmers State Bank of Victor, Victor, Montana.

Board of Governors of the Federal Reserve System, January 22, 1993.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 93–2004 Filed 1–26–93; 8:45 am]

BILLING CODE 6210–01–F

BB&T Financial Corporation, et al.; Acquisition of Company Engaged in Permissible Nonbanking Activities

The organization listed in this notice has applied under § 225.23(a)(2) or (f) of the Board's Regulation Y (12 CFR 225.23(a)(2) or (f)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than February 21, 1993.

A. Federal Reserve Bank of Richmond (Lloyd W. Bostian, Jr., Senior Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. BB&T Financial Corporation, Wilson, North Carolina; to acquire Carolina Savings Bank, Wilmington, North Carolina, and Edenton Savings and Loan Association, Edenton, North Carolina, and thereby engage in the traditional deposit taking and lending activities performed by a savings and loan association pursuant to § 225.25(b)(9) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, January 22, 1993.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 93–2005 Filed 1–26–93; 8:45 am]

BILLING CODE 6210–01–F

Dudley K. Montgomery; Change in Bank Control Notice

Acquisition of Shares of Banks or Bank Holding Companies

The notificant listed below has applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notice is available for immediate inspection at the Federal Reserve Bank indicated. Once the notice has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for the notice or to the offices of the Board of Governors. Comments must be received not later than February 16, 1993.

A. Federal Reserve Bank of Dallas (W. Arthur Tribble, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. Dudley K. Montgomery, Pecos, Texas; to acquire an additional 0.77 percent of the voting shares of The Security State Bank of Pecos, Pecos, Texas, for a total of 10.0 percent.

Board of Governors of the Federal Reserve System, January 22, 1993.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 93–2006 Filed 1–26–93; 8:45 am]

BILLING CODE 6210–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention (CDC)

Clinical Laboratory Improvement 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: Clinical Laboratory Improvement Advisory Committee.

Times and Dates: 8 a.m.–4:30 p.m., February 17, 1993; 8 a.m.–4 p.m., February 18, 1993.

Place: CDC, Auditorium A, Building 2, 1600 Clifton Road, NE, Atlanta, Georgia 30333.

Status: Open to the public, limited only by the space available.

Purpose: This committee is charged with providing scientific and technical advice and guidance to the Secretary of Health and Human Services and the Assistant Secretary for Health regarding the need for, and the nature of, revisions to the standards under which clinical laboratories are regulated; the impact of proposed revisions to the standards; and the modification of the standards to accommodate technological advances.

Agenda: The agenda will include issues associated with the Clinical Laboratory Improvement Amendments personnel standards. Topics will focus on comments received in response to the February 28, 1992, Final Rule.

Agenda items are subject to change as priorities dictate.

Contact Person for Additional Information: Henry M. Colvin, Assistant Director for Program Policy, Division of Laboratory Systems, Public Health Practice Program Office, CDC, 1600 Clifton Road, NE, Mailstop G–25, Atlanta, Georgia 30333, telephone 404/639–1706.

Anyone wishing to make an oral presentation should submit their request, in writing, to Mr. Colvin by close of business, February 3, 1993. The request should include the name, address, and telephone number of the participant; the approximate time needed; and a brief summary of the topic to be presented. Up to 10 minutes, depending on the number of requests, will be allowed for each oral presentation.

Dated: January 22, 1993.

Elvin Hilyer,

Associate Director for Policy Coordination. Centers for Disease Control and Prevention (CDC).

[FR Doc. 93–2074 Filed 1–26–93; 8:45 am]

BILLING CODE 4160–18–M

Food and Drug Administration

[Docket No. 93N–0020]

Animal Drug Export; Interceptor® (Milbemycin Oxime) Dye-Free Tablets

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Ciba-Geigy Animal Health, Ciba-Geigy Corp., has filed an application

requesting approval for export to Italy of the animal drug Interceptor® (milbemycin oxime) dye-free tablets for dogs.

ADDRESSES: Relevant information on this application may be directed to the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857, and to the contact person identified below. Any future inquiries concerning the export of non-food animal drugs under the Drug Export Amendments Act of 1986 should also be directed to the contact person.

FOR FURTHER INFORMATION CONTACT: Gregory S. Gates, Center for Veterinary Medicine (HFV–110), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–295–8617.

SUPPLEMENTARY INFORMATION: The drug export provisions in section 802 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 382) provide that FDA may approve applications for the export of drugs that are not currently approved in the United States. Section 802(b)(3)(B) of the act sets forth the requirements that must be met in an application for approval. Section 802(b)(3)(C) of the act requires that the agency review the application within 30 days of its filing to determine whether the requirements of section 802(b)(3)(B) have been satisfied. Section 802(b)(3)(A) of the act requires that the agency publish a notice in the **Federal Register** within 10 days of the filing of an application for export to facilitate public participation in its review of the application. To meet this requirement, the agency is providing notice that Ciba-Geigy Animal Health, Ciba-Geigy Corp., P.O. Box 18300, Greensboro, NC 27419–8300, has filed an application requesting approval for export to Italy of the animal drug Interceptor® (milbemycin oxime) dye-free tablets. The product is intended for use in dogs for prevention of heartworm disease and control of certain intestinal worm infections. The application was received and filed in the Center for Veterinary Medicine on January 12, 1993, which shall be considered the filing date for purposes of the act.

Interested persons may submit relevant information on the application to the Dockets Management Branch (address above) in two copies (except that individuals may submit single copies) and identified with the docket number found in brackets in the heading of this document. These submissions may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

The agency encourages any person who submits relevant information on the application to do so by February 8, 1993, and to provide an additional copy of the submission directly to the contact person identified above, to facilitate consideration of the information during the 30-day review period.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (sec. 802 (21 U.S.C. 382)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Center for Veterinary Medicine (21 CFR 5.44).

Dated: January 19, 1993.

Robert Furrow,

Deputy Director, Office of New Animal Drug Evaluation, Center for Veterinary Medicine.

[FR Doc. 93–1965 Filed 1–26–93; 8:45 am]

BILLING CODE 4160–01–F

[Docket No. 91E–0492 et al.]

Determination of Regulatory Review Period for Purposes of Patent Extension for Certain Products; Correction

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice; correction.

SUMMARY: The Food and Drug Administration (FDA) is correcting several notices of determination of the regulatory review period for purposes of patent extension, for certain products. The previous **Federal Register** notices contained mathematical errors caused by an inadvertent error in a computer program to calculate the regulatory review period. This document corrects those errors.

FOR FURTHER INFORMATION CONTACT: Brian J. Malkin, Office of Health Affairs (HFY–20), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–1382.

SUPPLEMENTARY INFORMATION: The table below lists the product name, the docket number, and the **Federal Register** citation corresponding to the notice of determination of regulatory review period for the product, and the corrections to the notices.

Recalculation of Regulatory Review Period

Product name	Docket number	Federal Register citation	Correction
Accupril®	91E–0492	57 FR 4212, February 4, 1992.	In FR Doc. 92–2633, on page 4212, in the 3d column in the 2d complete paragraph, in line 3, "3,441" is corrected to read "3,443"; in line 4, "2,414" is corrected to read "2,415"; and in line 6, "1,027" is corrected to read "1,028".
Biaxin®	92E–0063	57 FR 10907, March 31, 1992.	In FR Doc. 92–7319, on page 10907, in the 2d column, in the 2d complete paragraph, in line 3, "2,246" is corrected to read "2,248" and "1,566" is corrected to read "1,567"; and in line 6, "680" is corrected to read "681".
Zithromax®	92E–0027	57 FR 10907, March 31, 1992.	In FR Doc. 92–7262, on page 10908, in the 2d column, in the 1st complete paragraph, in line 3, "2,560" is corrected to read "2,562"; in line 4 "1,991" is corrected to read "1,992"; and in line 6, "569" is corrected to read "570".
Foscavir®	92E–0026	57 FR 12832, April 13, 1992.	In FR Doc. 92–8398, on page 12832, in the 3d column, in the 3d complete paragraph, in line 3, "1,709" is corrected to read "1,711"; in line 4, "1,337" is corrected to read "1,338"; and in line 6, "372" is corrected to read "373".
ZOCOR®	92E–0060	57 FR 12935, April 14, 1992.	In FR Doc. 92–8553, on page 12936, in the 1st column, in the 2d complete paragraph, in line 3, "2,493" is corrected to read "2,492" and "964" is corrected to read "962"; and in line 6, "1,529" is corrected to read "1,530".

Recalculation of Regulatory Review Period—Continued

Product name	Docket number	Federal Register citation	Correction
Dermatop®	91E–0476	57 FR 13746, April 17, 1992.	In FR Doc. 92–8872, on page 13747, in the 1st column, in the 1st complete paragraph, in line 3, "3,532" is corrected to read "3,534"; in line 4, "1,450" is corrected to read "1,451"; and in line 6, "2,082" is corrected to read "2,083".
Penetrex®	92E–0083	57 FR 14418, April 20, 1992.	In FR Doc. 92–8995, on page 14418, in the 3d column, in the 1st complete paragraph, in line 3, "3,352" is corrected to read "3,354"; in line 4, "1,458" is corrected to read "1,459"; and in line 6, "1,894" is corrected to read "1,895".
RELAFEN®	92E–0084	57 FR 14728, April 22, 1992.	In FR Doc. 92–9265, on page 14729, in the 1st column, in the 2d complete paragraph, in line 3, "4,220" is corrected to read "4,222"; in line 4, "2,077" is corrected to read "2,078"; and in line 6, "2,143" is corrected to read "2,144".
Mazicon®	92E–0082	57 FR 14729, April 22, 1992.	In FR Doc. 92–9270, on page 14730, in the 1st column, in the 1st complete paragraph, in line 3, "2,557" is corrected to read "2,559"; in line 4, "2,182" is corrected to read "2,183"; and in line 6, "375" is corrected to read "376".
Palmaz Balloon-Expandable Stent®	92E–0012	57 FR 15319, April 27, 1992.	In FR Doc. 92–9738, on page 15319, in the 3d column, in the 2d complete paragraph, in line 4, "1,575" is corrected to read "1,577" and "823" is corrected to read "824"; and in line 6, "752" is corrected to read "753".
Acel-Imune®	92E–0115	57 FR 18887, May 1, 1992.	In FR Doc. 92–10141, on page 18888, in the 1st column, in the 2d complete paragraph, in line 3, "2,002" is corrected to read "2,004".
Acel-Imune®	92E–0115	57 FR 22773, May 29, 1992.	In FR Doc. 92–12547, on page 22773, in the 3d column, in line 1, "434" is corrected to read "435"; and in line 2, "1,568" is corrected to read "1,569".
Maxaquin®	92E–0131	57 FR 18888, May 1, 1992.	In FR Doc. 92–10142, on page 18889, in the 1st column, in the 1st complete paragraph, in line 3, "1,486" is corrected to read "1,488"; in line 4, "916" is corrected to read "917"; and in line 6, "570" is corrected to read "571".
Lorabid®	92E–0081	57 FR 18889, May 1, 1992.	In FR Doc. 92–10190, on page 18889, in the 3d column, in the 2d complete paragraph, in line 3, "1,697" is corrected to read "1,699"; in line 4, "1,206" is corrected to read "1,207"; and in line 6, "491" is corrected to read "492".
Meta II, Model 1204 Cardiac Pacing System®	92E–0004	57 FR 20495, May 13, 1992.	In FR Doc. 92–11127, on page 20496, in the 2d column, in the 1st complete paragraph, in line 4, "448" is corrected to read "449" and "zero" is corrected to read "0"; in line 7, "448" is corrected to read "449".
Aredia®	92E–0025	57 FR 20693, May 14, 1992.	In FR Doc. 92–11271, on page 20694, in the 2d column in the 1st complete paragraph, in line 3, "1,583" is corrected to read "1,585" and "904" is corrected to read "905"; and in line 6, "679" is corrected to read "680".
Zoloft®	92E–0107	57 FR 20694, May 14, 1992.	In FR Doc. 92–11371, on page 20695, in the 1st column, in the 2d complete paragraph, in line 3, "3,997" is corrected to read "3,999" and "2,641" is corrected to read "2,642"; in line 6, "1,356" is corrected to read "1,357".
Mivacron®	92E–0156	57 FR 23235, June 2, 1992.	In FR Doc. 92–12845, on page 23236, in the 2d column, in the 1st complete paragraph, in line 3, "2,755" is corrected to read "2,757"; in line 4, "2,245" is corrected to read "2,246"; and in line 6, "510" is corrected to read "511".
Ticlid® (Patent No. 4,051,141)	92E–0023	57 FR 23238, June 2, 1992.	In FR Doc. 92–12847, on page 23238, in the 2d column, in the 2d complete paragraph, in line 3, "5,487" is corrected to read "5,489" and "4,772" is corrected to read "4,773"; and in line 6, "715" is corrected to read "716".
Ticlid® (Patent No. 4,591,592)	92E–0024	57 FR 23238, June 2, 1992.	In FR Doc. 92–12848, on page 23239, in the 2d column, in the 2d complete paragraph, in line 3, "5,487" is corrected to read "5,489" and "4,772" is corrected to read "4,773"; and in line 6, "715" is corrected to read "716".
Omniflox®	92E–0169	57 FR 23414, June 3, 1992.	In FR Doc. 92–12941, on page 23414, in the 2d column, in the 3d complete paragraph, in line 3, "1,449" is corrected to read "1,451"; in line 4, "658" is corrected to read "659"; and in line 6, "791" is corrected to read "792".
Ismo®	92E–0144	57 FR 25040, June 12, 1992.	In FR Doc. 92–13844, on page 25041, in the 1st column, in the 3d complete paragraph, in line 3, "2,878" is corrected to read "2,880" and "1,157" is corrected to read "1,158"; and in line 6, "1,721" is corrected to read "1,722".

Recalculation of Regulatory Review Period—Continued

Product name	Docket number	Federal Register citation	Correction
ADSOL® Red Cell Preservation Solution System	92E–0154	57 FR 32227, July 21, 1992.	In FR Doc. 92–17063, on page 32228, in the 1st column, in the 1st complete paragraph, in line 4, "1,192" is corrected to read "1,194"; in line 5, "496" is corrected to read "497"; and in line 7, "696" is corrected to read "697".
CPD Blood-Pack®	92E–0151	57 FR 32228, July 21, 1992.	In FR Doc. 92–17064, on page 32228, in the 3d column, in the 2d complete paragraph, in line 3, "1,192" is corrected to read "1,194"; in line 4, "496" is corrected to read "497"; and in line 6, "696" is corrected to read "697".
Cefzil®	92E–0080	57 FR 33965, July 31, 1992.	In FR Doc. 92–18110, on page 33966, in the 1st column, in the 1st complete paragraph, in line 3, "2,248" is corrected to read "2,250", and "1,615" is corrected to read "1,616"; and in line 6, "633" is corrected to read "634".

Dated: January 6, 1993.

Stuart L. Nightingale,

Associate Commissioner for Health Affairs.

[FR Doc. 93–1966 Filed 1–26–93; 8:45 am]

BILLING CODE 4160–01–F

National Institutes of Health

National Cancer Institute; Meeting (President's Cancer Panel Special Commission on Breast Cancer)

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the President's Cancer Panel Special Commission on Breast Cancer, National Cancer Institute, February 23, 1993, at the Hotel Washington, Washington Room, 515 15th Street, NW., Washington, DC 20004–1006.

This meeting will be open to the public from 8:30 a.m. to approximately 5 p.m. Attendance will be limited to space available. Agenda items will include presentations by invited speakers on the topic of "New Product Development and the Role of the Biotechnology Industry."

Iris J. Schneider, Acting Executive Secretary, President's Cancer Panel Special Commission on Breast Cancer, National Cancer Institute, Building 31, room 4A34, National Institutes of Health, Bethesda, Maryland 20892, 301/496–1148, will provide a roster of the Commission members and substantive program information. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should contact Iris J. Schneider, 301/496–1148 in advance of the meeting.

Dated: January 19, 1993.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 93–1917 Filed 1–26–93; 8:45 am]

BILLING CODE 4140–01–M

National Institute of Mental Health; Meeting

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the Extramural Science Advisory Board of the National Institute of Mental Health in February 1993.

This meeting will be open to the public as indicated below for discussion of the NIMH grant portfolio.

Ms. Joanna L. Kieffer, Committee Management Officer, National Institute of Mental Health, Parklawn Building, room 9–105, 5600 Fishers Lane, Rockville, MD 20857, Area Code 301, 443–4333, will provide a summary of the meeting and a roster of committee members.

Other information pertaining to the meeting may be obtained from the contact person indicated.

Committee Name: Extramural Science Advisory Board, NIMH.

Contact: Andrea Baruchin, Ph.D., 17C–26, Parklawn Building. Telephone: 301, 443–3657.

Meeting Date: February 22–23, 1993

Place: Building 31, Conference Room 8, National Institutes of Health, 9000 Wisconsin Avenue, Bethesda, MD 20892.

Open:

February 22, 1993, 8:30 a.m.–5 p.m

February 23, 1993, 8:30 a.m.–adjournment.

(Catalog of Federal Domestic Assistance Program Numbers 93.126, Small Business Innovation Research; 93.176, ADAMHA Small Instrumentation Program Grants; 93.242, Mental Health Research Grants; 93.281, Mental Research Scientist Development Award and Research Scientist Development Award for Clinicians; 93.282, Mental Health Research Service Awards for Research Training; and 93.921, ADAMHA Science Education Partnership Award.)

Dated: January 19, 1993.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 93–1918 Filed 1–26–93; 8:45 am]

BILLING CODE 4140–01–M

Prospective Grant of Exclusive License: Type Alpha Platelet-Derived Growth Factor (PDGF) Receptor Gene

AGENCY: National Institutes of Health, Public Health Service, DHHS.

ACTION: Notice.

SUMMARY: This is notice in accordance with 15 U.S.C. 209(c)(91) and 37 CFR 404.7(a)(1)(i) that the National Institutes of Health (NIH), Department of Health and Human Services, is contemplating the grant of an exclusive world-wide license to practice the invention embodied in U.S. Patent Application SN 07/308,282, entitled "Type Alpha Platelet-Derived Growth Factor Receptor Gene" to COR Therapeutics, Inc., of South San Francisco, California. The patent rights in this invention have been assigned to the United States of America.

The prospective exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7. It is anticipated that this license will be limited to all therapeutic and diagnostic fields of use of the receptor. These fields of use are expected to include: Cardiovascular medicine; central nervous system conditions; wound healing; inflammatory and proliferative conditions; and cancer. This prospective exclusive license may be granted unless within 60 days from the date of this published notice, NIH receives written evidence and argument that establishes that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR 404.7. If the prospective exclusive license is granted to COR Therapeutics, licenses for the use of the PDGF receptor for internal research purposes of its sale as a research reagent would still be available from the NIH.

The patent application describes novel DNA segments that encode platelet-derived growth factor (PDGF)

receptors that may be useful in therapies for conditions involving abnormal processes involving PDGF and its receptors. In particular, bioassay methods for detecting the expression of genes related to these DNA segments are effective in the identification of various classes of tumor cells, genetic defects in connective tissue growth, or in the healing response.

ADDRESSES: Requests for a copy of this patent application, inquiries, comments and other materials relating to the contemplated license should be directed to: Mr. Steven M. Ferguson, Technology Licensing Specialist, Office of Technology Transfer, National Institutes of Health, Box OTT, Bethesda, MD 20892. Telephone: (301) 496–7735; Facsimile: (301) 402–0220.

Dated: January 3, 1993.

Reid G. Adler,

Director, Office of Technology Transfer.

[FR Doc. 93–1919 Filed 1–26–93; 8:45 am]

BILLING CODE 4140–01–M

Public Health Service

National Institutes of Health; Statement of Organization, Functions, and Delegations of Authority

Part H, chapter HN (National Institutes of Health) of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health and Human Services (40 FR 22859, May 27, 1975, as amended most recently at 57 FR 54243, November 17, 1992), is amended to reflect a reorganization within the Office of the Director, National Institute of Environmental Health Sciences (OD/NIEHS) (HNV1), National Institutes of Health (NIH). This reorganization will: (1) Establish the Office of Management (HNV12), the Office of Occupational Health and Technical Services (HNV13), the Office of Communications (HNV14), the Office of Program Planning and Evaluation (HNV15), the Office of Computer Technology and Services (HNV16), and the Office of Institutional Development (HNV17), at the third-echelon level within the OD/NIEHS.

Section HN–B, Organization and Functions, is amended as follows: (1) Under the heading *National Institute of Environmental Health Sciences (HNV), Office of the Director (HNV1),* insert the following:

Office of Management (HNV12). Plans, develops, directs, and evaluates administrative and staff support for Institute programs, including:

(1) Facilities engineering activities;

(2) Personnel management and staff assistance;

(3) Financial management and staff assistance;

(4) Supply and property management;

(5) Office services support;

(6) Space management;

(7) Contracts and procurement management;

(8) Management analysis; and

(9) Other administrative management services.

Office of Occupational Health and Technical Services (HNV13).

(1) Plans and provides services for the Institute in the areas of employee health and assistance programs, occupational health and safety, environmental protection, and campus security;

(2) Provides research activity exposure assessment advance to the Institute Director, other agencies and private organizations;

(3) Plans the program of library services and technical information systems in support of NIEHS; and

(4) Provides advice on worker/safety training and related programs through the outside grants program.

Office of Communications (HNV14).

(1) Advises the Director and other senior Institute staff members on the effective interpretation and utilization of Institute-conducted and supported research findings in a board program of scientific and health reports for targeted audiences;

(2) Plans and directs a program of interpretation, presentation, and dissemination of scientific and technical information for the biomedical community and other special audiences through publications, audio and video tapes, and closed circuit radio and television;

(3) Answers Congressional, White House, and other inquiries concerning ongoing research and treatment in environmental diseases;

(4) Collaborates with voluntary agencies and professional societies in the exchange of scientific and health materials, and in the planning and production of educational health materials for the scientific community and various special audiences; and

(5) Maintains liaison with the NIH Associate Director for Communications and serves, on request, as the information source for public affairs matters relating to the Institute's programs.

Office of Program Planning and Evaluation (HNV15). Plans, develops, and directs Institute program planning analysis and evaluation activities, including:

(1) Long- and short-term analyses to provide a basis for priority setting and budgetary and operational reports;

(2) Special studies, such as analysis of availability and projected needs for specialized environmental health personnel;

(3) Assessment of the nation's ongoing environmental health activities as a means of insuring that the Institute selects areas of greatest need and opportunity; and

(4) Maintaining an awareness of legislative developments and preparing analyses of potential Institute impact of pending legislation.

Office of Computer Technology and Services (HNV16).

(1) Operates and maintains the Institute's computer systems and the network of terminals connected to the various computers at DCRT/NIH;

(2) Provides programming consultation services, including software systems development, to Institute personnel;

(3) Maintains an active computer engineering group that provides computing support to laboratory research activities in various branches; and

(4) Provides systems analysis and project management support to both Institute and National Toxicology Program systems development projects.

Office of Institutional Development (HNV17).

(1) Serves as the central focal point for establishing goals to assure diverse populations' participation in Institute research and training programs;

(2) Serves as principal liaison to minority institutions;

(3) Develops specific research and/or training programs to increase minority institutions' and populations' participation in environmental health research, and oversees implementation of programs;

(4) Serves as Institute representative to other government agencies to develop and implement plans to insure equity of impact on diverse populations of agency activities; and

(5) Coordinates overall policies related to minority health and education issues, both external and internal to the Institute.

Delegations of Authority Statement

All delegations and redelegations of authority to offices and employees of NIH which were in effect immediately prior to the effective date of this reorganization and are consistent with this reorganization shall continue in effect, pending further redelegation.

Dated: January 13, 1993.

Bernadine Healy,

Director, NIH.

[FR Doc. 93–1920 Filed 1–26–93; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

[Docket No. N–93–3561; FR–3401–N–01]

Notice of Formula Allocations for the HOME Investment Partnerships Program for FY 1993 and Deadlines for Submission of Notices of Intent, Comprehensive Housing Affordability Strategies, and Program Descriptions

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice of HOME Program formula allocations for FY 1993 and Deadlines for Submission of Notices of Intent to Participate, Comprehensive Housing Affordability Strategies, and Program Descriptions.

SUMMARY: This notice announces formula allocations of HOME Program funds for metropolitan cities, urban counties, consortia of units of general local government and States for FY 1993. It also announces the initial allocations for Guam, the Northern Mariana Islands, the Virgin Islands and American Samoa—the four insular areas. Further, this notice advises all jurisdictions eligible to receive allocations, except for the insular areas, of the deadlines for submitting their program description, and, for jurisdictions not previously designated as participating jurisdictions, of the deadlines for submitting their (1) written notification of intent to participate in the HOME Program and (2) comprehensive housing affordability strategy (housing strategy). Each insular area will be notified by the appropriate HUD Field Office of the submission requirements applicable for insular areas. Except for announcing the allocations to the insular areas, this notice applies to jurisdictions other than the insular areas.

DATES:

For Jurisdictions That Have Previously Been Designated as Participating Jurisdictions

Not later than March 15, 1993, a participating jurisdiction must submit a program description to the CPD Division Director in the appropriate HUD Field Office.

For Jurisdictions That Have Not Yet Been Designated as Participating Jurisdictions

Notification of intent to participate. Not later than March 15, 1993, a jurisdiction that has not previously been designated as a participating jurisdiction must notify the Community Planning and Development (CPD) Division Director in the appropriate HUD Field Office in writing, of its intention to become a participating jurisdiction, and, if applicable, must submit evidence that it has met the threshold allocation requirements.

Submission of housing strategy. Not later than 90 days after providing notification of its intention to become a participating jurisdiction, a new consortium that has not yet submitted a housing strategy to HUD must submit a housing strategy to the CPD Division Director in the appropriate HUD Field Office.

Note: Metropolitan cities and urban counties first eligible to become participating jurisdictions in FY 1993 must still submit their FY 1993 housing strategy by December 31, 1992, regardless of when they submit their notification of intent.

Submission of program description and certifications. Not later than 45 days after its designation as a participating jurisdiction, a new participating jurisdiction must submit a program description to the CPD Division Director in the appropriate HUD Field Office.

FOR FURTHER INFORMATION CONTACT: David M. Cohen, Director, Office of Affordable Housing Programs, room 7162, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC, 20410–7000; telephone (202) 708–2685. Hearing- or speech-impaired individuals may call HUD's TDD number (202) 755–2565. (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act Statement

The information collection requirements contained in this notice have been approved by the Office of Management and Budget, under section 3504(h) of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501–3520), and assigned OMB control number 2501–0013.

I. Purpose and Substantive Description

(A) Authority

The HOME Investment Partnerships Program is authorized by the HOME Investment Partnerships Act, as amended (42 U.S.C. 12701 et seq.) (the Act). The program regulations are codified at 24 CFR part 92. Section 92.50 of 24 CFR contains the basic formula for allocating HOME funds.

Regulations concerning the housing strategy are codified at 24 CFR part 91 and were published September 1, 1992 as a final rule at 57 FR 40038.

The Housing and Community Development Act of 1992 (Pub. L. 102–550) (the HCD Act of 1992) made several changes to the Act. A number of these changes were effective upon enactment and the Department issued a November 9, 1992 memorandum to participating jurisdictions notifying them of these changes which became effective October 28, 1992, the date the HCD Act of 1992 was signed into law. A notice which discusses these amendments will also be published in the **Federal Register.** This notice briefly describes only the amendments which affect the allocation of HOME funds.

Section 202 of the HCD Act of 1992 amended section 216(3) of the Act and changed the dollar thresholds for units of local government if the amount appropriated pursuant to section 205 of the Act for the HOME Program for any fiscal year is less than $1,500,000,000. For any such fiscal year, the threshold would be $335,000 (instead of $500,000) for a jurisdiction to receive a formula allocation. Further, in any such year, any jurisdiction that has not been designed as a participating jurisdiction would have to meet a participation threshold of $500,000 (instead of $750,000) to become a participating jurisdiction pursuant to 24 CFR 92.102(b) and as indicated below in Section III of this NOFA. Since the amount of funds appropriated for Fiscal Year 1993 is $1 billion, these lower thresholds apply this fiscal year.

Another change that relates to the allocation of HOME funds is that section 203 of the HCD Act of 1992 has eliminated the rental production set-aside and the restrictions on new construction, including the new construction list. Therefore, this notice neither identifies which jurisdictions may undertake new construction without limit, nor sets aside a portion of their allocation for rental housing production.

Section 211 of the HCD Act of 1992 amends the provision of the Act concerning insular areas and requires the Department to reserve from each fiscal year's appropriation of HOME funds the greater of $750,000 or 0.2 percent of the amounts appropriated for grants to the insular areas.

(B) Formula Allocation Amounts

A total of $1 billion has been appropriated for the HOME Program for FY 1993. The Department has set aside $10 million (one percent of the total HOME Program appropriation) for grants to Indian tribes and $2 million (0.2 percent of the total HOME Program appropriation) for insular areas. The $10 million for the Indian tribe will be made

available through a separate notice in the Federal Register. Further guidelines for the $2 million, allocated by formula to the insular areas, will be sent to each insular area by a letter from the appropriate HUD Field Office. This notice allocates by formula the remaining $988,000,000. Sixty percent, or $592,800,000, is being allocated to metropolitan cities, urban counties and consortia of units of local government and 40 percent, or $395,200,000, is being allocated to States.

Appendix A to this notice contains the formula allocations for metropolitan cities, urban counties, and consortia that receive allocations of $335,000 or more. The jurisdictions that have an asterisk by their allocation have not yet been designated as participating jurisdictions. Appendix B to this notice contains the formula allocations for States, and also indicates the initial allocations for Guam, the Northern Mariana Islands, the Virgin Islands, and American Samoa—the four insular areas.

(C) Eligibility

In the HOME Program funds are allocated by formula to units of general local government (that, as of the end of the previous fiscal year, are metropolitan cities, urban counties, or consortia approved under 24 CFR 92.101) and to States. The minimum formula allocation is $335,000 for a unit of general local government and $3,000,000 for a State. To be eligible to receive its formula allocation from HUD, a jurisdiction must be designated by HUD as a participating jurisdiction. However, once designated as a participating jurisdiction, a jurisdiction remains a participating jurisdiction and does not have to be designated again unless HUD revokes its designation in accordance with 24 CFR 92.107.

To be designated a participating jurisdiction, a jurisdiction that has not previously been designated a participating jurisdiction, or one that has had its designation as a participating jurisdiction revoked, must:

(1) Have an allocation under the formula. If its formula allocation is between $335,000 and $500,000, it must provide the difference between its formula allocation and $500,000, or the State may provide the shortfall from its allocation or from other sources. (24 CFR 92.102)

(Note: Previously designated participating jurisdictions with allocations between $335,000 and $500,000 do *not* have to make up this shortfall);

(2) Submit its notice of intent to participate (24 CFR 92.103); and

(3) Have a HUD-approved housing strategy (24 CFR 92.104).

When a jurisdiction has complied with the requirements of 24 CFR 92.102 through 92.104 and HUD Field Office has approved the jurisdiction's housing strategy in accordance with 24 CFR part 91, the HUD Field Office will designate the jurisdiction as a participating jurisdiction. Once a State or unit of general local government is designated a participating jurisdiction, it remains a participating jurisdiction for subsequent fiscal years according to 24 CFR 92.106, and the requirements of 24 CFR 92.102 through 92.105 do not apply, unless HUD revokes the designation in accordance with 92.107. Thus, while those jurisdictions that have previously been designated as participating jurisdictions must have a HUD-approved housing strategy, they do not have to meet the requirements of (1) and (2) above of this section.

II. Program Description Submission Requirements

Under 24 CFR 92.150(a), a previously designated participating jurisdiction must submit a program description each fiscal year within 45 days of the date of publication of the formula allocations, and a jurisdiction that has not yet been designated as a participating jurisdiction must submit a program description within 45 days of designation. Thus, any jurisdiction receiving an allocation for the first time, including newly formed consortia of units of general local government, must meet the requirements for designation as a participating jurisdiction before submitting its program description.

III. Checklist of Participation Threshold Submission Requirements and of Program Description Submission Requirements

(A) Evidence of Meeting Participation Threshold Allocation Requirement (Applies to New Participating Jurisdictions Only)

A unit of general local government listed in appendix A that has a formula allocation of $335,000 or more, but less than $500,000, and which has not previously been designated as a participating jurisdiction, must submit, with its notice of intent to participate, as evidence that it has met the participation threshold requirements in 24 CFR 92.102(b), the following:

(1) A letter from the governor or designee indicating that the required funds have been approved and budgeted for the unit of general local government; or

(2) Authorization from the State to transfer a portion of its allocation to the unit of general local government; or

(3) A letter from the chief executive officer of the unit of general local government indicating that the required funds have been approved and budgeted.

(B) Content of Program Description (Applies to All Participating Jurisdictions)

In accordance with 24 CFR 92.150(b), the program description must provide the following information:

(1) An executed Standard Form 424;

(2) For a local participating jurisdiction, the estimated use of HOME funds and of matching contributions, if applicable, (consistent with needs identified in its current approved housing strategy) for each of the following categories of eligible activities: program administration; community housing development organization operating expenses; new construction; substantial rehabilitation; other rehabilitation; acquisition (not involving new construction or rehabilitation); tenant-based rental assistance; and an estimate of whether units assisted will be rental or owner-occupied;

(3) For a State, a description of how the State will distribute funds (consistent with priorities identified in its current approved housing strategy) i.e., transferring funds to other participating jurisdictions that do not meet the participation threshold allocation level in 24 CFR 92.102, administering a competitive process, or directly administering HOME funds. To the extent known, States should identify the areas in which HOME funds will be used. In addition, States should specify the activities to be undertaken (including program administration and community housing development organization operating expenses) and the tenure groups to be assisted based on their current approved housing strategy, regardless of the manner of distribution. For those program description items in paragraphs (b)(5), (b)(7), and (b)(8) of 24 CFR 92.150 that must be approved by HUD, a State may either describe the requirements it plans to follow or, if distributing funds to State recipients, will require its recipients to follow. Alternatively, States may wish to submit to HUD the proposed requirements of its State recipients after they have submitted their applications to the State.

(4) The amount of HOME funds that the participating jurisdiction is reserving for investment in affordable housing owned, developed or sponsored by community housing development organizations. An explanation of how the jurisdiction will work with

community housing development organizations and a description of the activities (type of activity and level of funds) that community housing development organizations will be undertaking for the jurisdiction;

(5) If the participating jurisdiction intends to use HOME funds for first-time homebuyers, the guidelines for resale should be described as required in 24 CFR 92.254(a)(4);

(6) If the participating jurisdiction intends to use HOME funds for tenant-based rental assistance, a description of how the program will be administered consistent with the minimum guidelines described in 24 CFR 92.211;

(7) If a participating jurisdiction intends to use other forms of investment not described in 24 CFR 92.205(b), a description of the other forms of investment; and

(8) A statement of the policy and procedures to be followed by the participating jurisdiction to meet the requirements for affirmative marketing, and establishing and overseeing a minority and women's business outreach program under 24 CFR 92.350 and 92.351, respectively.

(C) The Following Certifications Must Accompany the Program Description (Applies to All Participating Jurisdictions)

(1) A certification that, before committing funds to a project, the participating jurisdiction will evaluate the project in accordance with guidelines that it adopts for this purpose and will not invest any more HOME funds in combination with other Federal assistance than is necessary to provide affordable housing;

(2) If the participating jurisdiction intends to provide tenant-based assistance, the certification required by 24 CFR 92.211;

(3) A certification that the submission of the program description is authorized under State and local law (as applicable), and the participating jurisdiction possesses the legal authority to carry out the HOME Investment Partnerships Program, in accordance with the HOME regulations;

(4) A certification that it will comply with the acquisition and relocation requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, implementing regulations at 49 CFR part 24 and the requirements of 24 CFR 92.353;

(5) A certification that the participating jurisdiction and, if applicable, State recipients, will use HOME funds pursuant to the participating jurisdiction's current approved housing strategy and in compliance with all requirements of 24 CFR part 92;

(6) The certification with regard to the drug-free workplace required by 26 CFR part 24, subpart F; and

(7) The certification required with regard to lobbying required by 24 CFR part 87, together with disclosure forms, if required by 24 CFR part 87.

If a jurisdiction needs a copy of the regulations, the Standard Form 424, or language for any required certification, it may obtain them from the Community Planning and Development Division of any HUD Field Office.

IV. Corrections to Deficient Program Descriptions

If the program description is not consistent with a participating jurisdiction's current approved housing strategy or if the participating jurisdiction has failed to submit information sufficient to allow HUD to make the necessary determinations required by 24 CFR 92.150(b)(5), (b)(7) and (b)(8), if applicable, HUD may require the participating jurisdiction to furnish such further information or assurances as HUD considers necessary to find the program description and certifications satisfactory. HUD will notify the participating jurisdiction in writing of any deficiencies in the program description within 30 days of receipt. The participating jurisdiction must submit corrections or additional information within a reasonable period of time, agreed upon by HUD and the participating jurisdiction.

As stated at 24 CFR 92.151(c), if the participating jurisdiction does not submit supporting information under 24 CFR 92.150 (b)(5) or (b)(7) that is sufficient to show consistency with its current approved housing strategy or to allow the required HUD determinations, or if HUD disapproves the guidelines under 24 CFR 92.150(b)(5) or the form of investment under 24 CFR 92.150(b)(7), the Field Office may approve the program description conditionally excepting those activities covered by those sections until such time as the necessary information is submitted.

V. Match Requirement for FY 1993 HOME Funds

Section 210 of the HCD Act of 1992 revised the matching requirements for participating jurisdictions in the HOME Program. Starting with Fiscal Year 1993 funds, participating jurisdictions must provide a 25 percent matching contribution for rental assistance, housing rehabilitation (including substantial rehabilitation) and acquisition of standard housing, and a 30 percent matching contribution for new construction. Further instructions concerning the match requirement will be included in an upcoming **Federal Register** notice which will discuss the amendments to the HOME Program. A matching contribution is not required for Fiscal Year 1992 funds, and no match credit is given, regardless of the fiscal year in which Fiscal Year 1992 funds are expended. The Department proposes to have the Cash and Management Information System calculate match liability. Match liability will be calculated based on the draw down of Fiscal Year 1993 HOME funds. Conversely, match credit will not be calculated until a participating jurisdiction begins to draw down its Fiscal Year 1993 HOME funds.

VI. Other Matters

Environmental Impact

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations at 24 CFR part 50, which implement section 102(2)(C) of the National Environmental Policy Act of 1969. The Finding is available for public inspection between 7:30 a.m. and 5:30 p.m. weekdays in the Office of the Rules Docket Clerk, Office of the General Counsel, Department of Housing and Urban Development, room 10276, 451 Seventh Street, SW., Washington, DC 20410–0500.

Executive Order 12612, Federalism

The General Counsel, as the Designated Official under section 6(a) of Executive Order 12612, *Federalism*, has determined that this notice does not have "federalism implications" because it does not have substantial direct effects on the States (including their political subdivisions), or on the distribution of power and responsibilities among the various levels of government, but rather, only makes funds available for participating jurisdictions to promote affordable housing.

Executive Order 12602, the Family

The General Counsel, as the Designated Official under Executive Order 12606, the Family, has determined that this notice has only an indirect impact on family, formation, maintenance, and general well-being, and is, therefore, not subject to the executive order.

Dated: January 19, 1993.

Don I. Patch,

Acting Deputy Assistant Secretary for Grant Programs.

Appendix A

HOME ALLOCATION AMOUNTS FOR FISCAL YEAR 1993

[In thousands of dollars]

Name	FY 93 amount
Birmingham, AL	1,954
Huntsville, AL	492
Mobile, AL	1,051
Montgomery, AL	899
Tuscaloosa, AL	453
Jefferson County, AL	863
Anchorage, AK	567
Phoenix, AZ	2,935
Maricopa County Consortium, AZ	2,134
Tucson Consortium, AZ	1,984
Little Rock, AR	747
Pine Bluff, AR	351
Alhambra, CA	398
Anaheim, CA	950
Bakersfield, CA	534
Berkeley, CA	936
Burbank, CA	443
Chula Vista, CA	493
Compton, CA	668
Costa Mesa, CA	429
El Cajon, CA*	427
El Monte, CA	630
Fresno, CA	1,427
Fullerton, CA	405
Garden Grove, CA	457
Glendale, CA	930
Hawthorne, CA	353
Huntington Beach, CA	584
Huntington Park, CA	554
Inglewood, CA	785
Long Beach, CA	2,601
Los Angeles, CA	23,574
Lynwood, CA	376
Modesto, CA	470
National City, CA	378
Oakland, CA	2,830
Oceanside, CA	405
Ontario, CA	371
Oxnard, CA	543
Pasadena, CA	793
Pomona, CA	516
Richmond, CA	485
Riverside, CA	776
Sacramento, CA	1,468
Salinas, CA	440
San Bernardino, CA	723
San Diego, CA	4,709
San Francisco, CA	5,419
San Jose, CA	2,386
Santa Ana, CA	1,074
Santa Barbara, CA	506
Santa Clara, CA	360
Santa Monica, CA	723
Santa Rosa, CA	418
South Gate, CA	508
Stockton, CA	881
Sunnyvale, CA	385
Torrance, CA*	430
Vallejo, CA	364
Contra Costa County, CA	1,054
Fresno County, CA	1,025
Kern County, CA	1,178
Los Angeles County, CA	8,695
Marin County, CA	839
Orange County, CA	1,694
Riverside County, CA	1,537
Sacramento County, CA	1,758
San Diego County, CA	1,258
San Joaquin County, CA	781
Santa Clara County, CA	927
Sonoma County, CA	829
Alameda County Consortium, CA	2,207
San Bernardino County Consortium, CA*	1,931
San Mateo County Consortium, CA	2,048
Ventura County Consortium, CA*	955
Aurora, CO	408
Boulder, CO	385
Colorado Springs, CO	801
Denver, CO	2,763
Adams County, CO	439
Pueblo Consortium, CO	534
Bridgeport, CT	1,428
Hartford, CT	1,649
New Britain, CT	430
New Haven, CT	1,316
Stamford, CT	434
Waterbury, CT	673
Wilmington, DE	541
New Castle County, DE	811
Daytona Beach, FL	394
Ft. Lauderdale, FL	742
Gainesville, FL	518
Hialeah, FL	841
Hollywood, FL*	401
Jacksonville, FL	2,551
Miami, FL	3,493
Miami Beach, FL	1,209
Orlando, FL	735
St. Petersburg, FL	1,080
Tallahassee, FL	543
Tampa, FL	1,532
West Palm Beach, FL	377
Broward County, FL	1,524
Dade County, FL	3,543
Hillsborough County, FL	1,089
Lee County, FL	350
Orange County, FL	1,139
Pasco County, FL	515
Polk County, FL	818
Brevard County Consortium, FL	773
Escambia County Consortium, FL*	973
Palm Beach County Consortium, FL*	1,320
Pinellas County Consortium, FL	1,284
Sarasota County Consortium, FL	534
Volusia County Consortium, FL	1,111
Albany, GA	545
Athens, GA	431
Atlanta, GA	3,320
Augusta, GA	481
Columbus, GA	897
Macon, GA	765
Savannah, GA	1,029
De Kalb County, GA	1,259
Greater North Atlanta Consortium, GA	1,745
Honolulu, HI	3,186
Boise, ID	353
Chicago, IL	26,673
Decatur, IL	423
East St. Louis, IL	652
Peoria, IL	592
Rockford, IL	598
Springfield, IL	435
Madison County, IL	841
St. Clair County, IL	724
Will County, IL	388
Cook County Consortium, IL*	4,689
Du Page County Consortium, IL*	1,301
Lake County Consortium, IL	847
Bloomington, IN	356
Evansville, IN	621
Fort Wayne, IN	714
Gary, IN	965
Hammond, IN	362
Indianapolis, IN	2,847
Muncie, IN	421
Lake County, IN	413
South Bend Consortium, IN	706
Davenport, IA	423
Des Moines, IA	795
Kansas City, KS	732
Topeka, KS	399
Wichita, KS	1,108
Covington, KY	377
Lexington-Fayette, KY	928
Louisville, KY	1,976
Jefferson County, KY	773
Alexandria, LA	372
Baton Rouge, LA	1,461
Lafayette, LA	382
Monroe, LA	406
New Orleans, LA	5,201
Shreveport, LA	1,005
Jefferson Parish Consortium, LA*	1,537
Portland, ME	437
Baltimore, MD	6,849
Anne Arundel County, MD	625
Baltimore County, MD	1,633
Montgomery County, MD	1,210
Prince Georges County, MD	1,819
Boston, MA	5,188
Brockton, MA	594
Cambridge, MA	754
Fall River, MA	772
Lawrence, MA	628
Lowell, MA	643
New Bedford, MA	873
Somerville, MA	612
Springfield, MA	1,228
Worcester, MA	1,074
Fitchburg Consortium, MA*	412
Holyoke Consortium, MA	682
Malden Consortium, MA	1,715
Newton Consortium, MA	986
Peabody Consortium, MA*	2,042
Quincy Consortium, MA	657
Ann Arbor, MI	578
Detroit, MI	9,710
Flint, MI	916
Grand Rapids, MI	900
Kalamazoo, MI	497
Lansing, MI	667
Pontiac, MI	424
Saginaw, MI	556
Genesee County, MI	640
Macomb County, MI	423
Oakland County, MI	934
Wayne County, MI	983
Duluth, MN	408
Minneapolis, MN	2,274
St. Paul, MN	1,241
Dakota County Consortium, MN	1,272
Hennepin County Consortium, MN	1,106
St. Louis County Consortium, MN	509
Jackson, MS	1,034
Kansas City, MO	1,967
Springfield, MO	585
St. Louis, MO	3,653
St. Louis County, MO	1,696
Lincoln, NE	594
Omaha, NE	1,311
Las Vegas, NV	732
Reno, NV	499
Clark County Consortium, NV	991
Manchester, NH	499
Atlantic City, NJ	418
Camden, NJ	987
East Orange, NJ	809
Elizabeth, NJ	942
Irvington, NJ	600
Jersey City, NJ	2,448
Newark, NJ	4,769
Passaic, NJ	742
Paterson, NJ	1,779
Perth Amboy, NJ	399
Trenton, NJ	811

HOME ALLOCATION AMOUNTS FOR FISCAL YEAR 1993—Continued

[In thousands of dollars]

Name	FY 93 amount
Bergen County, NJ	2,339
Burlington County, NJ	687
Essex County, NJ	1,035
Gloucester County, NJ	547
Middlesex County, NJ	604
Monmouth County, NJ	1,056
Morris County, NJ	480
Somerset County, NJ	375
Camden County Consortium, NJ*	795
Hudson County Consortium, NJ	2,957
Mercer County Consortium, NJ*	411
Ocean County Consortium, NJ	894
Union County Consortium, NJ	1,118
Vineland Consortium, NJ*	545
Albuquerque, NM	1,336
Albany, NY	695
Babylon Town, NY	535
Binghamton, NY	381
Buffalo, NY	3,360
Islip Town, NY	756
Mount Vernon, NY	680
New Rochelle, NY	467
New York, NY	85,151
Niagara Falls, NY	466
Rochester, NY	1,922
Syracuse, NY	1,266
Utica, NY	532
Yonkers, NY	1,387
Dutchess County, NY	441
Nassau County, NY	2,813
Orange County, NY	532
Rockland County, NY	632
Suffolk County, NY	1,384
Westchester County, NY	1,233
Amherst Consortium, NY*	716
Erie County Consortium, NY	808
Monroe County Consortium, NY	887
Onondaga County Consortium, NY	552
Schenectady Consortium, NY	968
Charlotte, NC	1,398
Durham, NC	690
Fayetteville, NC	447
Greensboro, NC	652
Raleigh, NC	634
Wilmington, NC	368
Asheville Consortium, NC*	837
Gastonia Consortium, NC*	400
Surry County Consortium, NC*	446
Winston-Salem Consortium, NC*	868
Akron, OH	1,279
Canton, OH	511
Cincinnati, OH	3,128
Cleveland, OH	5,226
Columbus, OH	3,203
Dayton, OH	1,436
East Cleveland, OH	398
Hamilton City, OH	373
Springfield, OH	511
Toledo, OH	1,842
Youngstown, OH	732
Franklin County, OH	604
Hamilton County, OH	948
Lake County, OH	362
Cuyahoga County Consortium, OH*	1,463
Montgomery County Consortium, OH	851
Stark County Consortium, OH*	624
Summit County Consortium, OH	520
Warren Consortium, OH	687
Lawton, OK	371
Oklahoma City, OK	1,644
Tulsa, OK	1,321
Salem, OR	393
Clackamas County, OR	567
Washington County, OR	676
Eugene Consortium, OR	794
Portland Consortium, OR	2,831
Allentown, PA	520
Erie, PA	667

HOME ALLOCATION AMOUNTS FOR FISCAL YEAR 1993—Continued

[In thousands of dollars]

Name	FY 93 amount
Harrisburg, PA	435
Lancaster, PA	381
Philadelphia, PA	12,033
Pittsburgh, PA	2,891
Reading, PA	576
Scranton, PA	443
Allegheny County, PA	2,601
Beaver County, PA	613
Berks County, PA	424
Chester County, PA	756
Lancaster County, PA	709
Washington County, PA	709
Bucks County Consortium, PA	1,020
Delaware County Consortium, PA	1,653
Luzerne County Consortium, PA*	1,206
Montgomery County Consortium, PA*	1,268
Westmoreland County Consortium, PA*	1,030
York County Consortium, PA	890
Pawtucket, RI	451
Providence, RI	1,417
Charleston, SC	562
Columbia, SC	546
Greenville, SC	371
North Charleston, SC	371
Greenville County, SC	686
Sumter County Consortium, SC*	910
Chattanooga, TN	929
Knoxville, TN	1,028
Memphis, TN	3,829
Nashville-Davidson, TN	1,979
Abilene, TX	371
Amarillo, TX	476
Arlington, TX	469
Austin, TX	1,865
Beaumont, TX	553
Brownsville, TX	703
Corpus Christi, TX	1,177
Dallas, TX	4,338
El Paso, TX	2,501
Fort Worth, TX	1,647
Galveston, TX	364
Houston, TX	7,094
Laredo, TX	820
Lubbock, TX	701
McAllen, TX	390
San Antonio, TX	4,418
Waco, TX	590
Wichita Falls, TX	369
Bexar County, TX	394
Harris County, TX	1,205
Hidalgo County, TX	1,266
Tarrant County, TX	612
Salt Lake City, UT	926
Salt Lake County Consortium, UT	1,020
Utah Valley Consortium, UT	783
Alexandria, VA	510
Chesapeake, VA	399
Hampton, VA	463
Newport News, VA	716
Norfolk, VA	1,759
Portsmouth, VA	671
Richmond, VA	1,417
Roanoke, VA	498
Virginia Beach, VA	763
Arlington County, VA	723
Fairfax County, VA	1,170
Henrico County, VA*	450
Prince William County, VA*	352
Charlottesville Consortium, VA*	560
Seattle, WA	2,588
Spokane, WA	927
Tacoma, WA	891
Clark County, WA	640
Pierce County, WA	1,059
Spokane County, WA	461
King County Consortium, WA*	1,766
Snohomish County Consortium, WA*	968

HOME ALLOCATION AMOUNTS FOR FISCAL YEAR 1993—Continued

[In thousands of dollars]

Name	FY 93 amount
Green Bay, WI	389
Madison, WI	837
Milwaukee, WI	4,144
Racine, WI	368
Milwaukee County Consortium, WI*	709
Aguadilla Municipio, PR	368
Arecibo Municipio, PR	373
Bayamon Municipio, PR	740
Caguas Municipio, PR	529
Carolina Municipio, PR	696
Guaynabo Municipio, PR	357
Mayaguez Municipio, PR	755
Ponce Municipio, PR	975
San Juan Municipio, PR	4,078

*An asterisk indicates a jurisdiction that has not yet been designated as a participating jurisdiction.

Appendix B

HOME ALLOCATION AMOUNTS FOR FISCAL YEAR 1993

[$ in thousands]

Name	FY 93 amount	Name	FY 93 amount
Alabama	9,916	Montana	3,335
Alaska	3,000	Nebraska	3,000
Arizona	3,000	Nevada	3,000
Arkansas	7,520	New Hampshire	3,000
California	28,390	New Jersey	6,389
Colorado	4,602	New Mexico	3,369
Connecticut	6,044	New York	21,367
Delaware	3,000	North Carolina	13,952
District of Columbia.	4,745	North Dakota	3,335
Florida	9,806	Ohio	15,485
Georgia	12,262	Oklahoma	6,715
Hawaii	3,000	Oregon	4,658
Idaho	3,000	Pennsylvania	14,483
Illinois	12,865	Rhode Island	3,000
Indiana	8,625	South Carolina	7,623
Iowa	6,516	South Dakota	3,335
Kansas	4,414	Tennessee	9,859
Kentucky	10,409	Texas	22,869
Louisiana	8,854	Utah	3,000
Maine	3,481	Vermont	3,335
Maryland	4,146	Virginia	8,307
Massachusetts.	8,951	Washington	5,681
Michigan	14,461	West Virginia	7,191
Minnesota	4,622	Wisconsin	7,931
Mississippi	9,338	Wyoming	3,335
Missouri	8,477	Puerto Rico	6,547

FY 1993 HOME ALLOCATION AMOUNTS FOR THE INSULAR AREAS

[$ in thousands]

American Samoa	$180
Guam	817
Northern Mariana Islands	171
United States Virgin Islands	832
Total	$2,000

[FR Doc. 93–1908 Filed 1–26–93; 8:45am]

BILLING CODE 4210–32–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

California Desert District Grazing Advisory Board; Meeting

AGENCY: Bureau of Land Management, Department of the Interior.

ACTION: Notice of public meeting.

SUMMARY: Notice is hereby given, in accordance with Public Law 94–579, title IV, section 403, that a public meeting of the California Desert District Grazing Advisory Board will be held on Wednesday, February 24, 1993 from 10 a.m. to 4:45 p.m. in the Council Chambers of the Needles Civic Center—City Hall, 1111 Bailey Street, Needles, California.

The agenda for the meeting will include:

—Wild Horse and Burro Management
—Incentive-Based Grazing Fee
—U.S. Fish and Wildlife Service Section 7 Consultations
—Rangeland Management and Improvements
—Rangeland Monitoring

The meeting is open to the public, with time allotted for public comment after each agenda subject has been presented.

Summary minutes of the meeting will be maintained in the California Desert District Office, 6221 Box Springs Boulevard, Riverside, California 92507, and will be available there for public inspection during regular business hours 7:45 a.m. to 4:30 p.m. (P.S.T.) within 30 days following the meeting.

FOR FURTHER INFORMATION CONTACT: Contact the Bureau of Land Management, California Desert District Office, Larry Morgan, 6221 Box Springs Boulevard, Riverside, California 92507, (909) 697–5370.

Dated: January 20, 1993.

Henri R. Bisson,

District Manager.

[FR Doc. 93–2016 Filed 1–26–93; 8:45 am]

BILLING CODE 4310–40–M

[ID–943–03–4210–04; IDI–28137]

Exchange and Order Providing for Opening of Public Lands; Idaho

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of exchange and opening order.

SUMMARY: The United States has issued an exchange conveyance document to Walter J. and Wanda R. Weeks, of Irwin, Idaho, under Section 206 of the Federal Land Policy and Management Act. In addition to providing official public notice of the exchange, this document contains an order which opens land received by the United States to the public land, mining, and mineral leasing laws.

EFFECTIVE DATE: February 26, 1993.

FOR FURTHER INFORMATION CONTACT: Sally Carpenter, BLM, Idaho State Office, 3380 Americana Terrace, Boise, Idaho, (208) 384–3163.

1. In an exchange made under the provisions of Section 206 of the Act of October 21, 1976, 90 Stat. 2756, 43 U.S.C. 1716, the following described land has been conveyed from the United States:

Boise Meridian

T. 1 N., R. 44 E.,
Sec. 22, SW¼NW¼NW¼SE¼NW¼, SW¼NW¼SE¼NW¼, S½SE¼NW¼SE¼NW¼, SW¼SE¼NW¼, W½NW¼SE¼SE¼NW¼, and SW¼SE¼SE¼NW¼.
Comprising 18.125 acres of public land.

2. In exchange for these lands, the United States acquired the following described lands:

Boise Meridian

T. 1 N., R. 44 E.,
From the south quarter corner of sec. 22, run N. 00°02′32″ E., 1,315.65 ft. and N. 89°54′44″ E., 436.77 ft. to the true point of beginning;
Thence N. 89°54′44″ E., 830 ft.;
Thence N. 04°58′02″ W., 1,324.70 ft.;
Thence S. 89°54′ W., 1,350 ft.;
Thence S. 30°18′33″ E., 365 ft.;
Thence S. 24°10′34″ E., 1,100 ft. to the true point of beginning.
Comprising 32.50 acres of private land.

The purpose of the exchange was to acquire non-Federal land which has high public values for winter range for mule deer. The public interest was well served through completion of the exchange. The values of both the Federal and non-Federal land in the exchange were appraised at $8,000.

3. At 9 a.m. on February 26, 1993, the reconveyed private lands described in paragraph 2 will be opened to the operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, other segregations of record, and the requirements of applicable law. All valid applications received at or prior to 9 a.m. on February 26, 1993, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

4. At 9 a.m. on February 26, 1993, the reconveyed private lands described in paragraph 2 will be opened to location and entry under the United States mining laws and to the operation of the mineral leasing laws, subject to valid existing rights, the provisions of existing withdrawals, other segregations of record, and the requirements of applicable law. Appropriation of any of the lands described in paragraph 2 under the general mining laws prior to the date and time of restoration is unauthorized. Any such attempted appropriation, including attempted adverse possession under 30 U.S.C. 38 (1988), shall vest no rights against the United States. Acts required to establish a location and to initiate a right of possession are governed by State law where not in conflict with Federal law. The Bureau of Land Management will not intervene in disputes between rival locators over possessory rights since Congress has provided for such determinations in local courts.

Dated: January 14, 1993.

William E. Ireland,

Chief, Realty Operations Section.

[FR Doc. 93–1962 Filed 1–26–93; 8:45 am]

BILLING CODE 4310–GG–M

National Park Service

Cuyahoga Valley National Recreation Area, Ohio; Sale of Real Property

AGENCY: Cuyahoga Valley National Recreation Area, National Park Service, Interior.

ACTION: Sale of real property.

SUMMARY: This notice publishes the interest of the National Park Service to solicit bids for the sale of lands within the boundary of Cuyahoga Valley National Recreation Area, Brecksville, Ohio.

DATES: The sale solicitation for sealed bids will be accepted until 2 p.m., April 30, 1993. The sealed bids are to be delivered to Superintendent, Cuyahoga Valley National Recreational Area, 15610 Vaughn Road, Brecksville, Ohio 44141.

FOR FURTHER INFORMATION CONTACT: Einar L. Johnson, Assistant Superintendent, Cuyahoga Valley National Recreation Area, 15610 Vaughn Road, Brecksville, Ohio 44141. Telephone 216–526–5256.

SUPPLEMENTARY INFORMATION: The following additional information is provided regarding the proposed sale of real property:

Justification

The National Park Service is soliciting sealed bids for the sale of Tract 109–38 (formerly 109–108) consisting of 1.13

acres with a residence within Cuyahoga Valley National Recreation Area. Selling of real property is authorized under section 5(a) of The Act of July 15, 1968, 82 Stat. 354, 16 U.S.C. 4601–22(a), 36 CFR part 17. Selling this historic property with deed restrictions will ensure the property is maintained in conformance with the Boston Historic District Themes and provide for private ownership at minimal expense to the Federal Government.

Legal Description

Cuyahoga Valley Tract 109–38, aka 1509 Boston Mills Road, Boston Township, Summit County, Ohio, containing 1.13 acres, more or less, including all improvements subject to protective covenants and restrictions available for inspection at the park Superintendent's office, 15610 Vaughn Road, Brecksville, Ohio 44141. Open House dates for showing the property are 2 p.m. to 4 p.m. April 4, April 11, and April 18, 1993.

Interest To Be Conveyed

The property will be sold to successful bidder in fee title with deed restrictions.

Fair Market Value

The Fair Market Value of the property as determined by an independent appraiser licensed in the State of Ohio is $66,000. The appraisal may be inspected at the Headquarters of Cuyahoga Valley National Recreation Area, 15610 Vaughn Road, Brecksville, Ohio 44141.

Former Owner's Preferential Rights

The former owner has the right to acquire interest in the real property upon matching the highest bid.

Conveyance Procedures, Requirements and Time Schedule

Conveyance of the property will be by a Restrictive Covenant Quit Claim Deed. The minimum acceptable bid is $66,000, plus a separate non-refundable payment of $100 to cover the cost of publication and processing of bids. Bids must be in writing, clearly identify the bidder, signed by the bidder or his assigned agent, state amount of bid, and refer to the notice. Bids must be accompanied by certified check, post office money order, bank draft, or cashier check and made payable to the United States of America for the full amount of the bid. This payment will be refundable to unsuccessful bidders.

The property will be available for public inspection on the site from 2 p.m. to 4 p.m. April 4, April 11, and April 18, 1993. Bids will be accepted until 2 p.m. April 30, 1993.

Dated: January 13, 1993.

Don H. Castleberry,

Regional Director, Midwest Region, National Park Service.

[FR Doc. 93–1993 Filed 1–26–93; 8:45 am]

BILLING CODE 4310–70–M

Mississippi River Coordinating Commission Meeting

AGENCY: National Park Service, Interior.

ACTION: Notice of meeting.

SUMMARY: This notice sets the schedule for the forthcoming meeting of the Mississippi River Coordinating Commission. Notice of this meeting is required under the Federal Advisory Committee Act.

The Agenda for the meeting is the initial Commission review and discussion of the draft comprehensive management plan/environmental impact statement for the Mississippi National River and Recreation Area. Public comments will be taken from 2:30 p.m. to 5 p.m. on Saturday, February 6.

DATE & TIME: February 5, 1993, 9 a.m. to 5 p.m., February 6, 1993, 9 a.m. to 5 p.m.

ADDRESSES: Spring Hill Conference Center, 725 County Road 6, Wayzata, Minnesota.

FOR FURTHER INFORMATION CONTACT: Superintendent, Mississippi National River and Recreation Area, 175 East Fifth Street, Suite 418, St. Paul, MN 55101. (612–290–4160).

SUPPLEMENTARY INFORMATION: The Mississippi River Coordinating Commission was established by Public Law 100–969, November 18, 1988.

Dated: January 21, 1993.

Don H. Castleberry,

Regional Director, Midwest Region.

[FR Doc. 93–1994 Filed 1–26–93; 8:45 am]

BILLING CODE 4310–70–M

Completion of Inventory of Native American Human Remains From Gunther Island, CA, in the Possession of the California Department of Parks and Recreation

AGENCY: National Park Service, Interior.

ACTION: Notice.

Notice is hereby given in accordance with provisions of the Native American Graves Protection and Repatriation Act, 25 U.S.C. 3003(d), of the completion of the inventory of human remains from Gunther Island, California, in the possession of the California Department of Parks and Recreation. Representatives of culturally affiliated Indian tribes are advised that these human remains will be retained by the Department at its headquarters facility until February 26, 1993, after which they may be repatriated to the culturally affiliated group.

The detailed inventory and assessment of these human remains has been made by the California Department of Parks and Recreation curatorial and archeological staff, contract specialists in physical anthropology and prehistoric archeology, and representatives of the Blue Lake Rancheria, Rohnerville Rancheria (also called the Bear River Mattole Wiyot Tribe), and the Table Bluff Reservation of the Wiyot Indians.

The human remains consist of a skull and mandible recovered from CA–HUM–67, a village site on Humboldt Bay about two miles north of Eureka, California. The antiquity of these remains has not been determined. These remains were possibly excavated by H.H. Stuart, a Eureka dentist who excavated 382 graves during the 1920s, 1930s, and 1940s, and sold, traded, or gave away the recovered bones and artifacts. These remains were acquired by the State Indian Museum between 1927–1950.

The village site from which the remains were recovered was known historically as Tolowat. Archeological and historical evidence indicates that the Tolowat village site was occupied between approximately 900 A.D. and 1860 when its Wiyot inhabitants were massacred by American settlers. There are no indications of occupation of the site by any other group.

This notice has been sent to officials of the Blue Lake Rancheria, Rohnerville Rancheria, and the Table Bluff Reservation of the Wiyot Indians. Representatives of any other Indian Tribe which believes itself to be culturally affiliated with these human remains should contact Pauline Grenbeaux Spear, Committee on Repatriation, P.O. 942896, Sacramento CA 94296–0001, (916) 324–6800 before February 26, 1993.

Dated: January 22, 1993.

Francis P. McManamon,

Departmental Consulting Archeologist, Chief, Archeological Assistance Division.

[FR Doc. 93–1995 Filed 1–26–93; 8:45 am]

BILLING CODE 4310–70–M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–643 (Preliminary)]

Defrost Timers From Japan

AGENCY: International Trade Commission.

ACTION: Institution and scheduling of a preliminary antidumping investigation.

SUMMARY: The Commission hereby gives notice of the institution of preliminary antidumping investigation No. 731–TA–643 (Preliminary) under section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)) to determine whether there is a reasonable indication that 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 Japan of defrost timers for residential refrigerators, provided for in subheading 9107.00.40 of the Harmonized Tariff Schedule of the United States, that are alleged to be sold in the United States at less than fair value. The Commission must complete preliminary antidumping investigations in 45 days, or in this case by March 5, 1993.

For further information concerning the conduct of this investigation 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 B (19 CFR part 207).

EFFECTIVE DATE: January 19, 1993.

FOR FURTHER INFORMATION CONTACT: Tedford Briggs (202–205–3181), 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

This investigation is being instituted in response to a petition filed on January 19, 1993, by Paragon Electric Co., Inc., Two Rivers, WI.

Participation in the Investigation and Public Service List

Persons (other than petitioners) wishing to participate in the investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided in sections 201.11 and 207.10 of the Commission's rules, not later than seven (7) 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 this investigation 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 this preliminary investigation available to authorized applicants under the APO issued in the investigation, provided that the application is made not later than seven (7) 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.

Conference

The Commission's Director of Operations has scheduled a conference in connection with this investigation for 9:30 a.m. on February 9, 1993, at the U.S. International Trade Commission Building, 500 E Street SW., Washington, DC. Parties wishing to participate in the conference should contact Tedford Briggs (202–205–3181) not later than February 5, 1993, to arrange for their appearance. Parties in support of the imposition of antidumping duties in this investigation and parties in opposition to the imposition of such duties will each be collectively allocated one hour within which to make an oral presentation at the conference. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the conference.

Written Submissions

As provided in sections 201.8 and 207.15 of the Commission's rules, any person may submit to the Commission on or before February 12, 1993, a written brief containing information and arguments pertinent to the subject matter of the investigation. Parties may file written testimony in connection with their presentation at the conference no later than three (3) days before the conference. If briefs or written testimony contain BPI, they must conform with the requirements of sections 201.6, 207.3, 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 investigation must be served on all other parties to the investigation (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: This investigation is being conducted under authority of the Tariff Act of 1930, title VII. This notice is published pursuant to section 207.12 of the Commission's rules.

Issued: January 11, 1993.

By order of the Commission.

Paul R. Bardos,

Acting Secretary.

[FR Doc. 93–1985 Filed 1–26–93; 8:45 am]

BILLING CODE 7020–20–M

[Investigation No. 337–TA–341]

Certain Static Random Access Memories, Components Thereof, and Products Containing Same; Notice of Commission Determination Not to Review an Initial Determination Designating the Investigation "More Complicated"

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 (ALJ) initial determination (ID) designating the above-captioned investigation "more complicated." The deadline for completion of the investigation is extended by six months, *i.e.*, from October 1, 1993, to April 1, 1994.

FOR FURTHER INFORMATION CONTACT: Matthew T. Bailey, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202–205–3108.

SUPPLEMENTARY INFORMATION: On December 9, 1992, respondent United Microelectronics Corp. filed a motion to designate the subject investigation "more complicated." Complainant SGS-Thomson Microelectronics, Inc. opposed the motion and the Commission investigative attorney suggested postponing the decision until after depositions in Taiwan are completed and the accused products are identified.

On December 22, 1992, the ALJ issued an ID (Order No. 4) granting the motion

to designate the investigation "more complicated" because the technology is extremely complex and in the interests of fairness to the parties because discovery has not been going well.

This action is taken under the authority of section 337 of the Tariff Act of 1930, 19 U.S.C. 1337, and Commission interim rule 210.53, 19 CFR 210.53.

Copies of the ID and all other nonconfidential documents filed in connection with this investigation 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 202–205–1000. Hearing-impaired persons are advised that information on the matter can be obtained by contacting the Commission's TDD terminal on 202–205–1810.

Issued: January 15, 1993.

By order of the Commission.

Paul R. Bardos,

Acting Secretary.

[FR Doc. 93–1983 Filed 1–26–93; 8:45 am]

BILLING CODE 7020–02–M

INTERSTATE COMMERCE COMMISSION

Intent To Engage in Compensated Intercorporate Hauling Operations

This is to provide notice as required by 49 U.S.C. 10524(b)(1) that the named corporations intend to provide or use compensated intercorporate hauling operations as authorized in 49 U.S.C. 10524(b).

1. Parent corporation and address of principle office: SUPERVALU INC., P.O. Box 990, Minneapolis, MN 55440.

2. *Wholly-owned subsidiaries which will participate in the operations, and state(s) of corporation:*

		State of Incorporation
Preferred Products, Inc	Chaska, MN	Minnesota.
SUPERVALU Holdings, Inc	Eden Prairie, MN	Minnesota.
SUPERVALU Transportation, Inc	Eden Prairie, MN	Minnesota.
Twin Valu Stores, Inc	Eden Prairie, MN	Minnesota.
Wetterau, Inc	Hazelwood, MO	Missouri.
Hazelwood Farms Bakeries, Inc	Hazelwood, MO	Missouri.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 93–1976 Filed 1–26–93; 8:45 am]

BILLING CODE 7035–01–M

[Docket No. AB–17 (Sub-No. 1X)]

Visalia Electric Railroad Co.; Abandonment Exemption; In Tulare County, CA

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Commission exempts from the prior approval requirements of 49 U.S.C. 10903–10904, Visalia Electric Railroad Company's abandonment of 18.02 miles of track in Tulare County, CA, subject to certain environmental and standard labor protective conditions.

DATES: Unless a formal expression of intent to file an offer of financial assistance is received, this exemption will be effective on February 26, 1993. Formal expressions of intent to file an offer[1] of financial assistance under 49 CFR 1152.27(c)(2) must be filed by February 8, 1993, petitions to stay must be filed by February 11, 1993, and petitions for reopening must be filed by February 22, 1993. Requests for a public use condition must be filed by February 16, 1993.

ADDRESSES: Send pleadings referring to Docket No. AB–17 (Sub-No. 1X) to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

(2) Petitioner's representatives:

John MacDonald Smith, Gary A. Laakso, Southern Pacific Building, One Market Plaza, San Francisco, CA 94105, and

Karl Morell, Louis E. Gitomer, Taylor, Morell & Gitomer, 919 18th Street, NW., Suite 210, Washington, DC 20006.

FOR FURTHER INFORMATION CONTACT:

Richard B. Felder, (202) 927–5610.

[TDD for hearing impaired: (202) 927–5721.]

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to, call, or pick up in person from: Dynamic Concepts, Inc., Room 2229, Interstate Commerce Commission Building, Washington, DC 20423. Telephone: (202) 289–4357/4359. (Assistance for the hearing impaired is available through TDD services, (202) 927–5721.)

Decided: December 31, 1992.

By the Commission, Chairman Philbin, Vice Chairman McDonald, Commissioners Simmons, and Phillips. Commissioner Simmons dissented with a separate expression.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 93–1975 Filed 1–26–93; 8:45 am]

BILLING CODE 7035–01–M

[1] *See Exemp. of Rail Line Abandonment—Offers of Finan. Assist.*, 4 I.C.C. 2d 164 (1987).

DEPARTMENT OF JUSTICE

Lodging of Final Judgment by Consent Pursuant to the Comprehensive Environmental Response, Compensation and Liability Act; United States v. Cooper Industries, Inc., et al.

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that on December 7, 1992, a consent decree in *United States* v. *Cooper Industries, Inc., et al.*, Civil Action No. 92–2365, was lodged with the United States District Court for the Western District of Pennsylvania.

The complaint filed by the United States at the time of lodging the consent decree, alleges, under section 107 of CERCLA, 42 U.S.C. 9607, that the defendants, Cooper Industries, Inc., and General Electric Company (the "Settlors") are liable for response costs incurred by the United States in response to the release or threat of release of hazardous substances at the Osborne Landfill Superfund Site, in Mercer County, Pennsylvania (the "State"). In the complaint, the United States requests a judgment against the defendants jointly and severally for recovery of over $1,700,000 in past response costs under section 107(a) of CERCLA, 42 U.S.C. 9607(a); and a determination under section 113(g)(2) of CERCLA, 42 U.S.C. 9613(g)(2), that any finding of liability would be binding in any subsequent action for further response costs or damages.

In the consent decree, the Settlors have agreed, *inter alia*, to pay

$1,813,687.16 in past costs to the Hazardous Substances Trust Fund, and to reimburse the United States for response costs to be incurred in the future.

The Department of Justice will receive comments relating to the proposed consent decree for a period of thirty days from the date of publication of this notice. Comments should be addressed to the Acting Assistant Attorney General, Environment and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States* v. *Cooper Industries, Inc., et al.*, DOJ Ref. No. 90–11–2–659. The proposed consent decree may be examined at the office of the United States Attorney, Western District of Pennsylvania, 633 U.S. Post Office and Courthouse, 7th Avenue and Grant Street, Pittsburgh, Pennsylvania 15219. Copies of the consent decree may also be examined and obtained by mail at the Environmental Enforcement Section Document Center, 601 Pennsylvania Ave., NW., Box 1097, Washington, DC 20004 (202–347–2072). When requesting a copy of the consent decree by mail, please enclose a check in the amount of $6.25 (twenty-five cents per page reproduction costs) payable to the "Consent Decree Library."

John C. Cruden,

Chief, Environmental Enforcement Section.

[FR Doc. 93–1960 Filed 1–26–93; 8:45 am]

BILLING CODE 4410–01–M

Lodging of Consent Decree Pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA); United States v. Marathon Battery Co. et al.

In accordance with 42 U.S.C. 9622 and 28 CFR 50.7, notice is hereby given that a proposed consent decree in *United States* v. *Marathon Battery Co. et al.*, Civil Action No. 91–6544, was lodged with the United States District Court for the Southern District of New York on January 6, 1993. Under the terms of the proposed consent decree, Gould, Inc. (Gould) will implement the remedies selected by the Environmental Protection Agency (EPA) for the Marathon Battery Company Superfund Site in the Records of Decision (ROD) I, II and III. The Site is located in Cold Spring, Putnam County, New York. Gould will also perform the long term monitoring and maintenance at the Site. The consent decree further requires the two other settling parties, Marathon Battery Company (Marathon) and the U.S. Army (Army), to pay funds into a trust fund which will be used to finance the remedies at the Site. In accordance with the terms of the consent decree, the settling parties will also pay to EPA past response costs and interest, future costs for work currently in progress, and oversight costs. This consent decree will further modify a previous consent decree with Marathon and the Army under which Marathon and the Army settled their liability for the future costs associated with Area II and EPA's implementation of ROD II. This consent decree will modify the previous consent decree to the extent that funds contributed to Marathon and the Army under the previous consent decree will be used by Gould to perform the remedial action in Area II. The previous consent decree was styled *United States* v. *Marathon Battery Company*, 91.CIV 6544, and was entered by the District Court for the Southern District of New York on January 17, 1992.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States* v. *Marathon Battery Company, et al.*, DOJ Ref. #90–11–2–314.

The proposed consent decree may be examined at the Office of the United States Attorney, for the Southern District of New York, 100 Church Street, New York, New York 10007; Region II Office of the Environmental Protection Agency, 26 Federal Plaza, New York, New York 10278; and the Consent Decree Library, 601 Avenue, NW., Washington, DC 20044, 202–347–7829. In requesting a copy, please refer to the referenced case and enclose a check in the amount of $24.25 (25 cents per page reproduction costs), payable to the Consent Decree Library.

Roger Clegg,

Acting Assistant Attorney General, Environment and Natural Resources Division.

[FR Doc. 93–1959 Filed 1–26–93; 8:45 am]

BILLING CODE 4410–01–M

Lodging Under Clean Water Act in United States v. City of Seattle, WA

In accordance with Departmental policy, 28 CFR 50.7, 38 FR 19029, notice is hereby given that a Consent Decree in *United States* v. *City of Seattle*, No. C–92–1933 was lodged with the United States District Court for the Western District of Washington on December 18, 1992.

The United States brought this action pursuant to section 301(a) of the Clean Water Act, 33 U.S.C. 1311(a), in response to sewage discharges by the City of Seattle and Constructors-Pacific Company (doing business as Pamco) into Union Bay on Lake Washington. The Consent Decree requires the defendants to pay a $25,000 civil penalty, $12,500 from each defendant. The Consent Decree also requires the City of Seattle to conduct a water pollution source control program to reduce the amount of contamination reaching storm sewers. As part of the source control program, the City of Seattle will label storm drains discharging to Lake Washington, review the waste disposal practices of certain businesses, and carry out other public awareness measures.

For thirty (30) days from the date of publication of this notice, the Department of Justice will receive written comments relating to the Consent Decree with the City of Seattle and Constructors-Pacific Company. Comments should be addressed to Assistant Attorney General Environmental Enforcement Section, Environment and Natural Resources Division, U.S. Department of Justice, Washington, DC 20530, and should refer to *United States* v. *City of Seattle* (Union Bay), DOJ Ref. No. 90–5–1–1–3616.

The Consent Decree may be examined at the Region X Offices of the Environmental Protection Agency, 1200 Sixth Avenue, Seattle, WA 98101 and at the Consent Decree Library, 601 Pennsylvania Avenue, NW., Box 1097, Washington, DC 20004, Tel. (202) 347–2072. Copies of the Consent Decree may be obtained in person or by mail from the Consent Decree Library. In requesting copies, please tender a check in the amount of $4.00 (25 cents per page reproduction charge) payable to the Consent Decree Library.

Roger Clegg,

Attorney General, Environment and Natural Resources Division.

[FR Doc. 93–1958 Filed 1–26–93; 8:45 am]

BILLING CODE 4410–01–M

Antitrust Division

United States v. Cookson Group, PLC, et al.; Public Comment and Response on Proposed Final Judgment

Pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b) through (h), the United States publishes below the comments received on the proposed Final Judgment in *United States* v. *Cookson Group, plc, et al.*, Civil Action No. 92 2206, filed in the United States District Court of the District of Columbia, together with the

United States' responses to the comments.

Copies of the comments and responses are available for inspection and copying in room 3233 of the Antitrust Division, U.S. Department of Justice, 10th Street and Pennsylvania Avenue, NW., Washington, DC, and for inspection and copying at the Office of the Clerk of the United States District Court for the District of Columbia, United States Courthouse, 333 Constitution Avenue, NW., Washington, DC.

Constance K. Robinson,

Deputy Director of Operations, Antitrust Division.

Exhibit A, the Final Judgment as originally proposed, the Competitive Impact Statement, and the Stipulation previously were published in the **Federal Register** (57 FR 46869, October 13, 1992) and are not republished herein. Exhibit B, copies of affidavits of publication of newspaper notices of the proposed Final Judgment and Competitive Impact Statement, also are omitted from publication herein. Exhibit C, are copies of the public comments relating to the proposed Final Judgment. These may be requested for inspection and copying at room 3233, Antitrust Division, Department of Justice, Washington, DC 20530 and at the Office of the Clerk of the United States District Court for the District of Columbia, United States Courthouse, 3rd Street and Constitution Avenue, NW., Washington, DC 20001.

Comments on the Proposed Final Judgment and the United States Responses to the Comments

In the United States District Court for the District of Columbia: United States of America, Plaintiff, v. Cookson Group PLC, Electrovert Ltd., and Electrovert U.S.A. Corp., Defendants. Civil Action No. 92 2206, Hon. Thomas F. Hogan.

Pursuant to the requirements of the Antitrust Procedures and Penalties Act ("APPA"), 15 U.S.C. 16(b)–(h), the United States hereby files the attached comments on the proposed Final Judgment in the above-captioned civil antitrust proceeding, together with the United States responses to those comments.

This action was commenced on September 29, 1992, when the United States filed a Complaint alleging that the acquisition by Cookson Group plc; Electrovert Ltd.; and Electrovert U.S.A. Corp. ("Electrovert") of the assets of Hollis Automation Company (Hollis") violated section 7 of the Clayton Act because the effects of the acquisition may be substantially to lessen competition in interstate trade and commence for high performance and mid-range wave soldering machines in North America.

At the same time the United States also filed a proposed Final Judgment, a Stipulation signed by the parties stipulating to entry of the Final Judgment, and a Competitive Impact Statement. The proposed Final Judgment requires Electrovert to license in perpetuity all North American rights to Hollis' wave soldering technology to two of four current industry participants. The Stipulation provides that the proposed Final Judgment may be entered by the Court after completion of the procedures required by the APPA.

The APPA requires a sixty-day period for the submission of public comments on the proposed Final Judgment, 15 U.S.C. 16(b). In this case, the sixty-day comment period commenced on October 13, 1992, and terminated on December 14, 1992. During this period, the United States received eight comments on the proposed Final Judgment. The United States considered the comments and sent written responses to the commenting parties.[1]

Pursuant to 15 U.S.C. 16(e), the proposed Final Judgment can be entered only after the Court determines that the Judgment is in the public interest. The focus of this determination is whether the relief provided by the proposed Final Judgment is adequate to remedy the antitrust violations alleged in the Complaint.[2]

The eight comments expressed concern over the increased domination of the United States wave soldering machine industry by foreign owned firms, the capability of the proposed licensees to redesign their machines in a timely manner to incorporate Hollis' "hot air knife" technology, the continued availability of spare parts from Electrovert for United States customers, the fact some competitively sensitive information might have been exchanged between Electrovert and Hollis prior to the United States commencing its investigation, and the fact that aqueous cleaner products were not addressed in the proposed Final Judgment.

The United States explained in its responses that the antitrust laws are designed to protect against the possibility that a merger could enable the resulting firm to exercise market power and harm United States consumers through higher prices or reduced output. The antitrust laws do not distinguish between foreign and domestic companies since it is the likelihood of harm to competition—rather than its possible source—with which the antitrust laws are concerned.

Although three of the four proposed licensees are owned by foreign companies, each has made a substantial investment in the United States wave soldering machine market and appear well positioned to compete effectively in the North American high performance and mid-range wave soldering machine markets. The proposed licensees have made and likely will continue to make important technological contributions to wave soldering; therefore, the United States does not believe that the proposed Final Judgment will impede technological innovations in this industry.

Incorporating the "hot air knife" will require design changes to all the proposed licensees' wave soldering machines and some machines might require more extensive changes than others. However, the proposed licensees are all manufacturers of either high performance or mid-range wave soldering machines, or both. Redesigning their machines to accommodate the "hot air knife" would take much less time and money than de novo entry. The proposed Final Judgment requires Electrovert to demonstrate to the United States satisfaction that each proposed licensee has the capability and incentive to produce wave soldering machines incorporating the "hot air knife" and compete effectively in the sale of these machines in North America within one year from the date of the license.

The United States does not believe the proposed Final Judgment Jeopardizes the availability of spare parts from Electrovert in the United States. Spare parts availability is crucial to success for any wave soldering machine manufacturer and is a profitable part of its business. If Electrovert were to cut back on available spare parts in North America, it would seriously impact on its future sales.

As to the concern that some information exchange took place shortly after the acquisition that may have affected some Hollis representatives' sales activities and negotiations, the United States explained that this transaction was not subject to the Hart-Scott-Rodino Antitrust Improvements Act of 1976[3] and was brought to our attention by a complainant. The transaction had been consummated when the investigation began and some

[1] The Comments and Responses are attached as Exhibit A.

[2] *United States* v. *Bechtel Corp.*, 1979–1 Trade Cases (CCH) ¶ 62,430 (N.D. Cal. 1979), *aff'd*, 648 F.2d 660, 665 (9th Cir. 1981), *cert. denied*, 454 U.S. 1083 (1982).

[3] 15 U.S.C. 18a (1976).

steps had already been taken to merge the two companies. The United States entered into a voluntary agreement with Electrovert to maintain the status quo pending the completion of its investigation. The agreement was put in place to prevent any more serious commingling of the companies until the investigation was completed.

Finally, concern was expressed that the proposed Final Judgment and Competitive Impact Statement did not address aqueous cleaner products. This was not an oversight. After its investigation, the United States concluded that the aqueous cleaners produced by Hollis and Electrovert were not in the same relevant product market. Because of these facts, the allegations set forth in the Complaint did not include the aqueous cleaner product market. Therefore, the relief provided by this proposed Final Judgment is adequate to remedy the violations alleged in the Complaint.

The comments also raise several other concerns over the use of the Herfindahl-Hirschman Index as a tool for determining market concentration, how the industry sources interviewed by the United States were selected, and whether Electrovert's motive in making the acquisition was properly considered. These concerns are all addressed in the attached responses.

After careful consideration of the comments, the United States continues to believe that for the reasons stated in the responses to the comments and in the Competitive Impact Statement, the proposed Final Judgment would be adequate to remedy the risks to competition presented by the proposed acquisition and, therefore, the proposed Final Judgment is in the public interest.

After the comments and responses have been published in the **Federal Register**, pursuant to 15 U.S.C. 16(d), of the APPA, the Untied States will move this Court for entry of the proposed Final Judgment.

Dated: January 14, 1993.

Respectfully submitted,

Erin L. Carter,

Attorney, Antitrust Division, U.S. Department of Justice, 555 4th Street, NW., Room 10–437, Washington, DC 20001 (202) 307–0931.

Exhibit C

November 2, 1992.

Mr. P. Terry Lubeck, Chief, Litigation II Section, U.S. DEPARTMENT OF JUSTICE, Antitrust Division, 555 Fourth Street, NW., room 10–437, Washington, DC 20001

Re: Civil Action No. 92 2206
United States of America v. *Cookson Group PLC, Electrovert, LTD., and Electrovert USA Corp.*

Dear Mr. Lubeck: Our company is a manufacturer's representative who has represented Hollis Automation in Florida for five years. We have been in this business for eleven years during which we previously represented The John Treiber Company. I have been in the electronics manufacturing sector for twenty-three years. I believe that I have the experience and the insight into this industry and this case in particular to offer the following comments and observations of how this acquisition will adversely impact the electronics industry, the US economy and possibly our national security.

1. The main objective in the acquisition of Hollis Automation/Esterline by Cookson/Electrovert was to eliminate competition as demonstrated by the presale agreement by Cookson and Esterline to replace Hi-Tech Automation (a successful Hollis representative in New England) with Equipment Sales Co. (owned by Esterline). This would allow Equipment Sales/Esterline to profit from Electrovert's control of the marketplace.

2. The two largest wave soldering manufacturers (Hollis and Electrovert) are now owned by foreign corporations, i.e. Cookson (British) and Electrovert (Canadian). Impact: (a.) Historically the competition between Hollis and Electrovert has pushed the technological aspects of mass soldering forward. This has been a great benefit to our electronics and defense industries as witnessed by the increase in soldering reliability and throughput. Now that Electrovert will control more than 50% of the marketplace, there will be no need to invest in R&D to maintain their market position. The other competitors (Technical Devices, John Treiber, et al) are considerably smaller and have yet to demonstrate significant technological impact in the industry. (Technical Devices recently lost a patent suit to Electrovert for copying the design of Electovert's wave.) (b.) Cookson, for whatever reason, could decide to cease manufacturing altogether or move out of the US, seriously jeopardizing companies dependent upon them for spare parts. In fact many Hollis customers are already experiencing a shortage of spare parts and lack of customer support.

3. Three of the four proposed licensees of the AirKnife technology are foreign corporations, one of which (Seitz & Hohnerlein) has strong connections to the Fodor family (one time owners of Electrovert). We want to keep American industry strong, especially high tech industry, and keep it in the USA! The Department of Justice investigation concludes that wave soldering is the only viable method of mass production soldering of PCB's using pin-in-hole technology. Having foreign corporations controlling this market does not seem to be in the best interest of the US.

4. Licensing of the AirKnife technology is not as simple as it sounds. An AirKnife cannot be just "bolted on" to an existing machine. Technical changes to incorporate the AirKnife into existing machine designs would require substantial design changes (almost from the ground up). Ventilation controlling the tin/lead solder is critical to successful operations. Are the licensees going to be able to accomplish it to meet the requirements of the judgement? Or will they spend time and money to find out how difficult a task it is and be bogged down and worse off one year after the judgement? Whereas, Electrovert will manufacture and market the Hollis AirKnife model already designed and proven. Even the Justice complaint acknowledges the fact that entering the market would be nearly impossible.

5. Why would Esterline sell a $16KK company (1991 sales—page 5 of complaint) for approximately $10KK (page 3 impact statement)?

6. The glaring oversight to us in the industry was the omission of the issue of the aqueous cleaning equipment in the competitive impact statement. Both Hollis and Electrovert are dominant figures in this marketplace. There are only three other aqueous cleaning manufacturers in the industry (Westek, John Treiber, and Technical Devices). This could have any even greater competitive market impact than wave soldering.

7. As demonstrated by Electrovert's first assimilation of Hollis equipment (they moved the cleaner production to their Camdenton, MO facility almost immediately), it was the cleaner line that they were more interested in acquiring. Right away Electrovert began advertising and selling the Hollis aqueous cleaners under the Electrovert name, same price but less warranty. This was in competition with the Hollis representatives who were promised that the two lines would be maintained as separate entities. (See enclosure #1 dated March 18, 1992.) However, as noted in our termination letter (enclosure #2 dated October 28, 1992), the antitrust litigation is being blamed for part of our woes.

8. As soon as the sale took place, Electrovert representatives began to receive Hollis sales leads and other competitive sales information (quotations and sales activity and forecasts). This "inside information" gave them the advantage in knowing where our sales activities were and our negotiations. The Electrovert reps would then call on the same customers and try to undermine the Hollis reps.

9. This action by Cookson is a repeat of the Fry-Alpha acquisitions, two competitors in the solder and chemical markets. Since the acquisition Alpha has focused only on electronics, and Fry has focused on non-electronic accounts. In effect it eliminated a competitor in each of these markets.

10. Customers and interested parties who were interviewed by the Department of Justice were not informed of the proposed final judgement. Almost without exception, they are amazed that the sale is going to be allowed to take place knowing the adverse effect it will have on our industry.

11. The only solution that is in the best interest of the US is the divestiture of Hollis by Cookson to a viable US company and the restoration of Hollis and its technology to the condition before acquisition. Somewhere along the way we must stop the drain of our high tech industries by foreign acquisition. The place must be here and now!

I urge you to withdraw your support of the proposed final judgement and pursue divestiture thus sending a clear message to multinational corporations that they simply may not eliminate competition with their checkbooks. I offer my assistance to my government in whatever is necessary to achieve this goal.

Sincerely,

Edwin J. Booth, III,

Century Automation.

EJB:eb

Enclosures

cc: President George Bush, Senator Connie Mack, Senator Bob Graham, Representative Bill McCollum.

U.S. Department of Justice

Antitrust Division

Dated: January 8, 1993.

Mr. Edwin J. Booth, III, Century Automation, 108 Bay Hammock Lane, Longwood, Florida 32779.

Re: *United States* v. *Cookson Group, plc, Electrovert Ltd., and Electrovert U.S.A. Corp.* Civil Action 92–2206

Dear Mr. Booth:

This letter responds to your letters dated November 2, 1992, to the Antitrust Division, and November 5, 1992, to President Bush, commenting on the proposed Final Judgment in the above-referenced civil antitrust case, which challenges the acquisition of the assets of Hollis Automation Company ("Hollis") by Cookson Group, plc's wholly-owned subsidiary, Electrovert U.S.A. Corp. ("Electrovert"). The Complaint alleges that the acquisition, as originally structured, violated section 7 of the Clayton Act, as amended, 15 U.S.C. 18, because its effects may be substantially to lessen competition in the North American high performance and mid-range wave soldering machine markets. Under the proposed Final Judgment, Electrovert would be required to license Hollis' wave soldering technology, including Hollis' patented "hot air knife," to two of four current industry participants. The licenses are designed to eliminate the anticompetitive effects arising from Electrovert's acquisition of Hollis' wave soldering machine assets by enabling these firms to reposition their products to replace competition that would otherwise be lost by this acquisition and to effectively meet the full variety of customer needs for high performance and mid-range wave soldering machines.

You expressed concern that the two largest wave soldering manufacturers in the United States are now owned by a single foreign corporation and that three of the four possible licensees of the "hot air knife" and other Hollis technology are also foreign corporations. The impact of this, you state, could affect the strength of American industry, impede technological innovations in wave soldering, and impact spare parts availability in the United States.

The mandate of the Antitrust Division ("Division") when reviewing any acquisition is to determine whether the effect of the acquisition may be substantially to lessen competition for a particular relevant market within a defined geographic area. The antitrust laws that govern this review process are nationality neutral. Those laws protect against the possibility that a merger could enable the resulting firm to exercise market power and harm U.S. consumers through higher prices or reduced output. In assessing the likelihood of these potential effects, the antitrust laws do not distinguish between foreign and domestic companies that wish to purchase domestic companies since it is the likelihood of harm—rather than its possible source—with which the antitrust laws are concerned.

It is true that since Electrovert acquired Hollis' wave soldering assets, Technical Devices is the only United States company to manufacture high performance and mid-range wave soldering machines. Although three of the four possible licensees, Sensbey Incorporated ("Sensbey"), Soltec International B.V. ("Soltec"), and Seitz and Hohnerlein ("Seho"), are owned by foreign parents, each company has made a substantial investment in the United States wave soldering market. Each company has offices, trained sales staff and service technicians, spare parts inventory, demonstration facilities, and proven track records for reliability in both foreign and domestic markets. In addition, two of these companies are contemplating building wave soldering machine manufacturing facilities in the United States. Each firm, including Technical Devices, appears well positioned to compete effectively in the North American high performance and mid-range wave soldering machine markets.

After an extensive investigation, we determined that the proposed Final Judgment likely would be procompetitive and would encourage technological innovation in wave soldering. About 75 percent of Hollis' wave soldering machine sales included the "hot air knife." Licensing the "hot air knife" would expand the competitive choices currently available to air knife customers that previously had only one source. Licensing the air knife also is attractive because the air knife likely will gain importance over the next several years as component density on printed circuit boards increases. Although Electrovert and Hollis have been the technological leaders in wave soldering, the proposed licensees have made and likely will continue to make important technological contributions to this industry. Sensbey introduced the first high performance wave soldering machine to North America, while Soltec and Seho were the first to manufacture and market nitrogen-inert atmosphere wave soldering machines.

We understand that incorporating the "hot air knife" will require design changes to all of the proposed licensees' wave soldering machines and that some machines will require more extensive changes than others. However, the proposed Final Judgment requires Electrovert to demonstrate to our satisfaction that each proposed licensee has the capability and incentive to produce wave soldering machines incorporating the "hot air knife" and compete effectively in the sale of these wave soldering machines in North America within one year from the date of the license. To satisfy us that the proposed licensees have the economic incentive to redesign their machines to accept the hot air knife, Electrovert may have to offer worldwide licenses, rather than the North American licenses that would be required by the proposed Final Judgment. If Electrovert does not secure two acceptable licenses within the timetable outlined in the proposed Final Judgment, a trustee will be appointed to satisfy the requirement.

During our investigation, we concluded that de novo entry into the North American high performance or mid-range wave soldering machine market would not be timely, likely, or sufficient to ameliorate the lessening of competition that would result from this transaction. However, the proposed licensees are all manufacturers of either high performance or mid-range wave soldering machines, or both. Redesigning their machines to accommodate the "hot air knife" would take much less time and money than de novo entry.

You expressed concern that Electrovert may jeopardize spare parts availability in the United States. Spare parts availability is crucial to success for any wave soldering manufacturer and is a profitable part of its business. If Electrovert were to cut back on available spare parts in North America, it would seriously impact on its future sales. Even if Electrovert moved its manufacturing facilities out of the United States, parts required by customers could be inventoried here or could likely be obtained within 24 hours by using overnight mail services. Because of the critical nature of spare parts availability to reputation and future success for the manufacturer, Electrovert is unlikely to jeopardize spare parts availability in the United States and North America.

You also expressed concern that the Competitive Impact Statement did not address aqueous cleaners. This was not an oversight. Hollis manufactures only a plastic aqueous cleaner, while Electrovert manufactures only a stainless steel cleaner, which is more durable and expensive than plastic cleaners. Although both products will clean a printed circuit board, our analysis determined that these two types of aqueous cleaners are not in the same relevant product market because consumers generally do not view stainless steel cleaners as good substitutes for plastic aqueous cleaners even if prices for the latter were increased by 5 to 10 percent for a significant period of time.

You stated that the main objective of this acquisition was to eliminate competition in the wave soldering market and to allow Esterline Corporation ("Esterline"), Hollis' parent corporation, to benefit by replacing a Hollis representative with one owned by Esterline. You also expressed surprise that Esterline would sell Hollis for only about $10 million. Generally, mergers are motivated by financial gain. Although there are many sources of gain, the Division analysis, as explained above, focuses on the gain of market power by the acquiring party, in this case, Electrovert.

You stated that individuals we interviewed during our investigation were "amazed" that the sale would be allowed to stand and that they were not informed by Division attorneys of the proposed Final Judgment. During our

investigation, we interviewed customers, sales representatives, and other individuals in the industry in order to evaluate the competitive effects of the acquisition. At that time, we did not know what the results of the investigation would be nor whether an appropriate resolution short of a complete divestiture existed. In this case, the procompetitive solution was outlined in the proposed Final Judgment. Since a proposed Final Judgment is confidential until it is filed with the appropriate Court, we are not allowed to discuss it outside the Department of Justice.

You stated that shortly after Electrovert acquired Hollis' wave soldering assets, Electrovert representatives received Hollis leads and other sales information. This impacted directly on your sales activities and negotiations. As you noted in your letter, Hollis was sold for approximately $10 million. The parties were not required to report this transaction under the Hart-Scott-Rodino Act because the assets were valued below the minimum threshold outlined in the Act. A complainant brought this transaction to our attention. When we began our investigation, the transaction had been consummated and some steps had already been taken to merge the two companies. We entered into a voluntary agreement with Electrovert to maintain the status quo, preventing Electrovert from taking further action to terminate or move functions, activities, or equipment at Hollis' Nashua, New Hampshire plant. However, because of the timing of our investigation, some information exchanges, such as sales lead information, had already taken place between the parties. The voluntary agreement was put in place to prevent any more serious commingling of the companies.

Finally, you expressed concern that this transaction is similar to the Fry-Alpha acquisition, in which, you state, an aggressive competitor in the solder market was eliminated. We cannot comment on the similarities or differences between these two transactions. Each investigation is fact specific, and we have no information concerning the Fry-Alpha acquisition available other than the limited information provided in your letter.

We appreciate your bringing your concerns to our attention, and hope that this information will help to alleviate them. While we understand your concerns, we believe that the proposed Final Judgment would adequately safeguard competition for high performance and mid-range wave soldering machines in North America and that entry of the proposed Final Judgment is in the public interest. Pursuant to the Antitrust Procedures and Penalties Act, a copy of your letter and this response will be published in the **Federal Register** and filed with the Court.

P. Terry Lubeck,

Chief, Litigation II Section.

November 19, 1992.

Mr. P. Terry Lubeck, Chief, Litigation II Section, U.S. Department of Justice, Antitrust Division, 555 Fourth Street, NW., room 10–437, Washington, DC 20001.

Re: Civil Action No. 92 2206
United States of America v. *Cookson Group PLC,*
Electrovert, LTD., and Electrovert USA Corp.

Dear Mr. Lubeck:

WE HAVE HAD IT!! By that I mean the citizens of the United States of America are not being protected by the laws which are on the books to look after the future well being of this country. The case which I am writing about is one where our Justice Department failed to thoroughly analyze what the end result will be and why it has happened. This country is being eaten alive by foreign investors in the technology in which we were once the world leaders. We have a case here where our antitrust laws would prevent, without any question in my mind, this occurrance of a British company buying up the number two competitor and then having well over 50%, close to 70%, of all the U.S. market in a small, but very technological field, the manufacture of electronic systems. We must do something immediately, and I implore you to help me, as well as yourself. The details are as follows.

One point that must be made in the proposal is the fact that we have lost the technology of pick and place in this country. The manufacturers have all diminished and even Universal Engineering who was the major supplier of this type of equipment no longer builds it and is predominantly selling Japanese equipment. The wave soldering machines and related equipment such as cleaners, will now be controlled by foreign investments. The technology is a basic part of the electronic manufacturing process and we are not using the laws we have on the books with the Antitrust measures to even attempt to protect our industries. The surface mount industry was basically demolished by better technology overseas. Here we are taking better technology which was developed in this country and putting it in the hands of overseas companies.

There must be a total divestiture of all the holdings, information, patents and everything involved in Hollis Automation that Electrovert has virtually assimilated in their company. Hollis Automation must be reestablished as an independent company owned by American dollars and/or investors.

Investigation alone, by your personnel in the Justice Department, could divulge all the aspects that represent some 30 years experience that I have, and possibly similar experience that others have in the field of electronic assembly.

I have a degree in Mechanical Engineering from Georgia Tech and have owned and operated my own successful business since 1952. My expertise has given me a complete insight into the machine tool and electronics industry. We have already allowed our basic machine tool industry to be destroyed by foreign owned companies. Our electronics industry on the component level has been virtually demolished. We still have a slight edge in the particular area of soldering and cleaning machines.

Our company is a manufacturer's representative who has been involved with Hollis Automation in North Carolina, South Carolina, Georgia, Alabama, Mississippi and Tennessee for twenty-five years. My experience with this industry and this case in particular equip me to precisely comment on how this acquisition will adversely impact the electronics industry, the US economy and possibly our national security.

The United States of America is unique in that it is based on the free enterprise system. Competition is healthy, and we are astounded that a mere formula (HHI), Page 3, Paragraph 9 of "COMPLAINT", can jeopardize that competition. What could the reason be for this acquisition other than Hollis Automation has developed a technology not available to Electrovert? Is that a reason to put so many people out of work, and possibly put some small businesses out of business. The action is thoughtless, and we are hard put to justify the reason the Department of Justice sees fit to allow this.

1. The main objective in the acquisition of Hollis Automation/Esterline by Cookson/Electrovert was to eliminate competition as demonstrated by the presale agreement by Cookson and Esterline to replace Hi-Tech Automation (a successful Hollis representative in New England) with Equipment Sales Co. (owned by Esterline). This would allow Equipment Sales/Esterline to profit from Electrovert's control of the marketplace.

2. The two largest wave soldering manufacturers (Hollis and Electrovert) are now owned by foreign corporations, i.e. Cookson (British) and Electrovert (Canadian). Impact: (a.) Historically the competition between Hollis and Electrovert has pushed the technological aspects of mass soldering forward. This has been a great benefit to our electronics and defense industries as witnessed by the increase in soldering reliability and throughput. Now that Electrovert will control more than 50% of the marketplace, there will be no need to invest in R&D to maintain their market position. The other competitors (Technical Devices, John Treiber, et al) are considerably smaller and have yet to demonstrate significant technological impact in the industry. (Technical Devices recently lost a patent suit to Electrovert for copying the design of Electrovert's wave.) (b.) Cookson, for whatever reason, could decide to cease manufacturing altogether or move out of the US, seriously jeopardizing companies dependent upon them for spare parts. In fact, many Hollis customers are already experiencing a shortage of spare parts and lack of customer support.

3. Three of the four proposed licensees of the AirKnife technology are foreign corporations, one of which (Seitz & Hohnerlein) has strong connections to the Fodor family (one time owners of

Electrovert). We want to keep American industry strong, especially high tech industry, and keep it in the USA! The Department of Justice investigation concludes that wave soldering is the only viable method of mass production soldering of PCB's using pin-in-hole technology. Having foreign corporations controlling this market does not seem to be in the best interest of the US.

4. Licensing of the AirKnife technology is not as simple as it sounds. An AirKnife cannot be just "bolted on" to an existing machine. Technical changes to incorporate the AirKnive into existing machine designs would require substantial design changes (almost from the ground up). Ventilation controlling the tin/lead solder is critical to successful operations. Are the licensees going to be able to accomplish it to meet the requirements of the judgment? Or will they spend time and money to find out how difficult a task it is and be bogged down and worse off one year after the judgment? Whereas, Electrovert will manufacture and market the Hollis AirKnife model already designed and proven. Even the Justice complaint acknowledges the fact that entering the market would be nearly impossible.

5. Why would Esterline sell a $16KK company (1991 sales—page 5 of complaint) for approximately $10KK (page 3 impact statement)?

6. The glaring oversight to us in the industry was the omission of the issue of the aqueous cleaning equipment in the competitive impact statement. Both Hollis and Electrovert are dominant figures in this marketplace. There are only three other aqueous cleaning manufacturers in the industry (Westek, John Treiber, and Technical Devices). This could have an even greater competitive market impact than wave soldering.

7. As demonstrated by Electrovert's first assimilation of Hollis equipment (they moved the cleaner production to their Camdenton, MO facility almost immediately). It was the cleaner line that they were more interested in acquiring. Right away Electrovert began advertising and selling the Hollis Aqueous cleaners under the Electrovert name, same price be less warranty. This was in competition with the Hollis representatives who were promised that the two lines would be maintained as separate entities. However, the antitrust litigation is being blamed for part of our woes.

8. As soon as the sale took place, Electrovert representatives began to receive Hollis sales leads and other competitive sales information (quotations and sales activity and forecasts). This "inside information" gave them the advantage in knowing where our sales activities were and our negotiations. The Electrovert reps would then call on the same customers and try to undermine the Hollis reps.

9. This action by Cookson is a repeat of the Fry-Alpha acquisitions, two competitors in the solder and chemical markets. Both were aggressive in the electronic and industrial markets. Since the acquisition Alpha has focused only on electronics, and Fry has focused on non-electronic accounts. In effect it eliminated a competitor in each of these markets.

10. Customers and interested parties who were interviewed by the Department of Justice were not informed of the proposed final judgment. Almost without exception, they are amazed that the sale is going to be allowed to take place knowing the adverse effect it will have on our industry.

11. The only solution that is in the best interest of the US is the divestiture of Hollis by Cookson to a viable US company and the restoration of Hollis and its technology to the condition before acquisition. Somewhere along the way we must stop the drain of our high tech industries by foreign acquisition. The place must be here and now!

I urge you to withdraw your support of the proposed final judgment and pursue divestiture that they simply may not eliminate competition with their checkbooks. I offer my assistance to my government in whatever is necessary to achieve this goal.

The fact is, gentlemen, our company has salesmen whose livelihood depend on the salary and commissions provided by us. Hollis Automation has been one of our primary principals, providing a major portion of commissions to these hard working men. I am sure we are not alone in the endeavor to help others maintain a good living. Shouldn't you do the same by allowing Hollis Automation to continue with what they do best?

Very truly yours,

Arnold I. Goldberg,

Protech Systems.

AIG: nng,

cc: President George Bush, Congressman Newt Gingrich, Congressman Ed Jenkins, Senator Sam Nunn, Senator Wyche Fowler.

U.S. Department of Justice

Antitrust Division

Dated: January 8, 1993.

Mr. Arnold I. Goldberg,
Protech System, 679 Arnold Mill Road, Woodstock, GA 30188.

Re: *United States* v *Cookson Group, plc, Electrovert Ltd., and Electrovert U.S.A. Corp. Civil Action No. 92-2206*

Dear Mr. Goldberg:

This letter responds to your letter dated November 19, 1992, commenting on the proposed Final Judgment in the above-referenced civil antitrust case, which challenges the acquisition of the assets of Hollis Automation Company ("Hollis") by Cookson Group, plc's wholly-owned subsidiary, Electrovert U.S.A. Corp. ("Electrovet"). The Compliant alleges that the acquisition, as originally structured, violated section 7 of the Clayton Act, as amended, 15 U.S.C. 18, because its effects may be substantially to lessen competition in the North American high performance and mid-range wave soldering machine markets. Under the proposed Final Judgment, Electrovert would be required to license Hollis' wave soldering technology, including Hollis' patented "hot air knife," to two of four current industry participants. The licenses are designed to eliminate the anticompetitive effects arising from Electrovert's acquisition of Hollis' wave soldering machine assets by enabling these firms to reposition their products to replace competition that would otherwise be lost by the acquisition and effectively meet the full variety of customer needs for high performance and mid-range wave soldering machines.

You expressed concern that the two largest wave soldering manufacturers in the United States are now owner by a single foreign corporation and that three of the four possible licensees of the "hot air knife" and other Hollis technology are also foreign corporations. The impact of this, you state, could affect the strength of American industry, impede technological innovations in wave soldering, and impact spare parts availability in the United States.

The mandate of the Antitrust Division ("Division") when reviewing any acquisition is to determine whether the effect of the acquisition may be substantially to lessen competition for a particular relevant market within a defined geographic area. The antitrust laws that govern this review process are nationality neutral. Those laws protect against the possibility that a merger could enable the resulting firm to exercise market power and harm U.S. consumers through higher prices or reduced output. In assessing the likelihood of these potential effects, the antitrust laws do not distinguish between foreign and domestic companies that wish to purchase domestic companies since it is the likelihood of harm—rather than its possible source—with which the antitrust laws are concerned.

It is true that since Electrovert acquired Hollis' wave soldering assets, Technical Devices is the only United States company to manufacture high performance and mid-range wave soldering machines. Although three of the four possible licensees, Sensbey Incorporated ("Sensbey"), Soltec International B.V. ("Soltec"), and Seitz and Hohnerlein ("Seho"), are owned by foreign parents, each company has made a substantial investment in the United States wave soldering market. Each company has offices, trained sales staff and service technicians, spare parts inventory, demonstration facilities, and proven track records for reliability in both foreign and domestic markets. In addition, two of these companies are contemplating bundling wave soldering machine manufacturing facilities in the United States. Each firm, including Technical Devices, appears well positioned to compete effectively in the North American high performance and mid-range wave soldering machine markets.

After an extensive investigation, we determined that the proposed Final Judgment likely would be procompetitive and would encourage technological innovation in wave soldering. About 75 percent of Hollis' wave soldering machine sales included the "hot air knife." Licensing the "hot air knife" would expand the competitive choices currently available to air knife customers that previously had only one source. Licensing the air knife also is attractive because the air knife likely will gain importance over the next several years as component density on

printed circuit boards increases. Although Electrovert and Hollis have been the technological leaders in wave soldering, the proposed licensees have made and likely will continue to make important technological contributions to this industry. Sensbey introduced the first high performance wave soldering machine to North America, while Soltec and Seho were the first to manufacture and market nitrogen-inert atmosphere wave soldering machines.

We understand that incorporating the "hot air knife" will require design changes to all of the proposed licensees' wave soldering machines and that some machines will require more extensive changes than others. However, the proposed Final Judgment requires Electrovert to demonstrate to our satisfaction that each proposed licensee has the capability and incentive to produce wave soldering machines incorporating the "hot air knife" and compete effectively in the sale of these wave soldering machines in North America within one year from the date of the license. To satisfy us that the proposed licensees have the economic incentive to redesign their machines to accept the hot air knife, Electrovert may have to offer worldwide licenses, rather than the North American licenses that would be required by the proposed Final Judgment. If Electrovert does not secure two acceptable licenses within the timetable outlined in the proposed Final Judgment, a trustee will be appointed to satisfy the requirement.

During our investigation, we concluded that de novo entry into the North American high performance or mid-range wave soldering machine market would not be timely, likely, or sufficient to ameliorate the lessening of competition that would result from this transaction. However, the proposed licensees are all manufacturers of either high performance or mid-range wave soldering machines, or both. Redesigning their machines to accommodate the "hot air knife" would take much less time and money than de novo entry.

You expressed concern that Electrovert may jeopardize spare parts availability in the United States. Spare parts availability is crucial to success for any wave soldering manufacturer and is a profitable part of its business. If Electrovert were to cut back on available spare parts in the United States, it would seriously impact on its future sales. Even if Electrovert moved its manufacturing facilities out of the United States, parts required by customers could be inventoried or likely could be obtained within 24 hours by using overnight mail services. Because of the critical nature of spare parts availability to reputation and future success for the manufacturer, Electrovert is unlikely to jeopardize spare parts availability in the United States and North America.

You also expressed concern that the Competitive Impact Statement did not address aqueous cleaners. This was not an oversight. Hollis manufactures only a plastic aqueous cleaner, while Electrovert manufactures only a stainless steel cleaner, which is more durable and expensive than plastic cleaners. Although both products will clean a printed circuit board, our analysis determined that these two types of aqueous cleaners are not in the same relevant product market because consumers generally do not view stainless steel cleaners as good substitutes for plastic aqueous cleaners even if prices for the latter were increased by 5 to 10 percent for a significant period of time.

You stated that individuals we interviewed during our investigation were "amazed" that the sale would be allowed to stand and that they were not informed by Division attorneys of the proposed Final Judgment. During our investigation, we interviewed customers, sales representatives, and other individuals in the industry in order to evaluate the competitive effects of the acquisition. At that time, we did not know what the results of the investigation would be nor whether an appropriate resolution short of a complete divestiture existed. In this case, the procompetitive solution was outlined in the proposed Final Judgment. Since a proposed Final Judgment is confidential until it is filed with the appropriate Court, we are not allowed to discuss it with third parties.

You stated that shortly after Electrovert acquired Hollis' wave soldering assets, Electrovert representatives received Hollis leads and other sales information. This impacted directly on your sales activities and negotiations. As you noted in your letter, Hollis was sold for approximately $10 million. The parties were not required to report this transaction under the Hart-Scott-Rodino Act because the assets were valued below the minimum threshold outlined in the Act. A complainant brought this transaction to our attention. When we began our investigation, the transaction had been consummated and some steps had already been taken to merge the two companies. We entered into a voluntary agreement with Electrovert to maintain the status quo, preventing Electrovert from taking further action to terminate or move functions, activities, or equipment at Hollis' Nashua, New Hampshire plant. However, because of the timing of our investigation, some information exchanges, such as sales lead information, had already taken place between the parties. The voluntary agreement was put in place to prevent any more serious commingling of the companies.

You also expressed concern that this transaction is similar to the Fry-Alpha acquisition, in which, you state, an aggressive competitor in the solder market was eliminated. We cannot comment on the similarities or differences between these two transactions. Each investigation is fact specific, and we have no information concerning the Fry-Alpha acquisition available other than the limited information provided in your letter.

Finally, you expressed concern that the Herfindahl-Hirschman Index ("HHI") was an inadequate method to determine the effects of an acquisition on competition. The HHI is a formula used to determine market concentration and interpret market data. While market concentration data is a useful indicator of the likely competitive effects of a merger, it provides only a starting point for analyzing the competitive impact of a merger. After a full investigation, we concluded as you do, that Electrovert's acquisition of the Hollis assets likely was anticompetitive.

We appreciate your bringing your concerns to our attention, and hope that this information will help to alleviate them. While we understand your concerns, we believe that the proposed Final Judgment would adequately safeguard competition for high performance and mid-range wave soldering machines in North America and that entry of the proposed Final Judgment is in the public interest. Pursuant to the Antitrust Procedures and Penalties Act, a copy of your letter and this response will be published in the **Federal Register** and filed with the Court.

Sincerely,

P. Terry Lubeck,

Chief, Litigation II Section.

Dated: November 2, 1992.

Mr. P. Terry Lubeck,
Chief, Litigation II Section, Antitrust Division, U.S. Department of Justice, Room 10–437, 555 Fourth Street, NW., Washington, DC 20001.

Reference: Civil Action No. 92 2206, *United States of America* v. *Cookson Group PLC, Electrovert Ltd., & Electrovert U.S.A. Corporation.*

Dear Sir:

I am and have been a manufacturers representative in the Midwest for twenty one years. During that time, I have sold only equipment used in the manufacture of electronic assemblies. I believe I am very familiar with the processes and equipment used to assemble these commodities.

The sale of Hollis Automation to the Cookson Group represents a major threat to the world wide electronics industry. During the twenty year period I have observed the marketplace, there have always been two major soldering machine suppliers. Hollis Automation and Electrovert. Most functional improvements in the technology during this time have come from Hollis Automation.

To combine the two companies invites lack of development and runaway pricing.

The other manufacturers of soldering equipment have either "come and gone" or never made a significant impact in the domestic market.

Please reconsider the sale of Hollis Automation to the Cookson Group companies.

If I can add further information to this subject, please feel free to contact me.

Best regards,

Richard L. Turner.

U.S. Department of Justice

Antitrust Division

Dated: January 8, 1993.

Mr. Richard L. Turner,
Productive Manufacturing Ideas, Route 5, Box 168, Mt. Home, Arkansas 72653.

Re: *United States* v. *Cookson Group, plc; Electrovert Ltd.; and Electrovert U.S.A. Corp. Civil Action No. 92–2206.*

Dear Mr. Turner:

This letter responds to your letter dated November 2, 1992, commenting on the proposed Final Judgment in the above-reference civil antitrust case, which

challenges the proposed acquisition of the assets of Hollis Automation Company ("Hollis") by Cookson Group, plc's wholly-owned subsidiary, Electrovert U.S.A. Corp. ("Electrovert"). The complaint alleges that the proposed acquisition, as originally structured, would violate section 7 of the Clayton Act, as amended, 15 U.S.C. 18, because the effects may be substantially to lessen competition in the North American high performance and mid-range wave soldering machine markets. Under the proposed Final Judgment, Electrovert is required to license Hollis' wave soldering technology, including Hollis' patented "hot air knife" to two of four current industry participants. The licenses are designed to eliminate the anticompetitive effects arising from Electrovert's acquisition of Hollis' wave soldering machine assets by enabling these firms to reposition their products to replace competition that would otherwise be lost by the acquisition and to effectively meet the full variety of customer needs for high performance and mid-range wave soldering machines.

You expressed concern that the combination of Hollis and Electrovert will lead to a lack of technological innovation in the wave soldering industry and higher prices. You also expressed concern that the proposed licensees have not contributed significantly to innovation in the United States wave soldering markets and are unlikely to make such contributions in the future. We would like to address each of these concerns.

It is true that since Electrovert acquired Hollis' wave soldering assets, Technical Devices is the only United States company to manufacture high performance and mid-range wave soldering machines. Although three of the four possible licensees, Sensbey Incorporated ("Sensbey"), Soltec International B.V. ("Soltec"), and Seitz and Hohnerlein ("Seho"), are owned by foreign parents, each company has made a substantial investment in the United States wave soldering market. Each company has offices, trained sales staff and service technicians, spare parts inventory, demonstration facilities, and proven track records for reliability in both foreign and domestic markets. In addition, two of these companies are contemplating building wave soldering machine manufacturing facilities in the United States. Each firm, including Technical Devices, appears well positioned to compete effectively in the North American high performance and mid-range wave soldering machine markets.

Although Electrovert and Hollis have been the technological leaders in wave soldering, the proposed licensees have made and likely will continue to make important technological contributions to this industry. Sensbey introduced the first high performance wave soldering machine to North America, while Soltec and Seho were the first to manufacture and market a nitrogen-inert atmosphere wave soldering machines.

During our investigation, we learned that approximately 75 percent of Hollis' wave soldering machine sales included the "hot air knife." further investigation revealed that Hollis' high performance and mid-range wave soldering machines were considered by many customers to be close substitutes for electrovert machines, mainly due to the "hot air knife." Because many customers considered Electrovert and Hollis' high performance and mid-range wave soldering machines close substitutes, post acquisition, Electrovert could impose a small but significant increase in price. Without technology such as Hollis' hot air knife, other firms would be unlikely to reposition themselves to replace Hollis as the primary competitive alternative to Electrovet. However, under the proposed Final Judgment, licensing the "hot air knife" would expand the competitive choices currently available to air knife customers that previously had only one source, thus making a small but significant price increase by Electrovert unprofitable.

Finally, we understand that incorporating the "hot air knife" will require design changes to all of the proposed licensees' wave soldering machines and that some machines will require more extensive changes than others. However, the proposed Final Judgment requires Electrovert to demonstrate to our satisfaction that each proposed licensee has the capability and incentive to produce wave soldering machines incorporating enable these firms to reposition their products to replace competition that would otherwise be lost by the acquisition and to effectively meet the full variety of customer needs for high performance or mid-range wave soldering machines.

Finally, we understand that incorporating the "hot air knife" will require design changes to all of the proposed licensees' wave soldering machines and that some machines will require more expensive changes than others. However, the proposed Final Judgment requires Electrovert to demonstrate to our satisfaction that each proposed licensee has the capability and incentive to produce wave soldering machines incorporating the "hot air knife" and compete effectively in the sale of these wave soldering machines in North America within one year form the date of the license. To satisfy us that the proposed licensees have the economic incentive to redesign their machines to accept the hot air knife, Electrovert may have to offer worldwide licenses, rather than the North American licenses that would be required by the proposed Final Judgment. If Electrovert does not secure two acceptable licenses within the timetable outlined in the proposed Final Judgment, a trustee will be appointed to satisfy the requirement.

We appreciate your bringing your concerns to our attention, and hope that this information will help to alleviate them. While we understand your concerns, we believe that the proposed Final Judgment would adequately safeguard competition for high performance and mid-range wave soldering machines in North America and that entry of the proposed Final Judgment is in the public interest. Pursuant to the Antitrust Procedures and Penalties Act, a copy of your letter and this response will be published in the **Federal Register** and files with the Court.

Sincerely,

P. Terry Lubeck,

Chief, Litigation II Section.

Precision Sales

Dated: November 9, 1992.

Mr. P. Terry Lubeck,

Chief, Litigation II Section, U.S. Department of Justice, Antitrust Division, 555 Fourth Street, NW., room 10–437, Washington, DC 20001.

Reference: Civil Action No. 92 2206, *United States of America* v. *Cookson Group PLC, Electrovert. Ltd., and Electrovert USA Corp.*

Dear Mr. Lubeck:

The referenced civil action pertained to the acquisition of Hollis Automation Company by Cookson/Electrovert.

I have been either a direct Hollis employee, or a manufacturers representative for Hollis, for the past 19 years. This background permits me to have the necessary experience to ask you to withdraw your support of the proposed final judgment to this suit for the following reasons:

1. The judgement will result in leaving only one viable U.S. manufacturer of wave solder systems (Technical Devices Company). This is a relatively small company and it does not have the technical or monetary assets to compete adequately.

2. The judgement will result in the vast majority of wave solder systems now in use being supported in parts and service by foreign corporations.

3. The judgement stipulates that the patented airknife technology, developed in the United States by Hollis, be licensed to two of four designated companies. Only one of these companies is a U.S. company. One of the major issues of the recent past election was the shipping of U.S. technologies to foreign corporations. By supporting this final judgement you are allowing this to occur again. In addition, if technical devices is not one of the licensees (I doubt that they can afford to purchase the license and then invest in the significant costs that would be required to modifying their existing equipment to incorporate it), this American developed patented technology would be totally foreign owned.

4. The wavesolder process is a critical technology in electronic assembly. It is used not only by commercial companies, but it is also a vital process used by our military contractors. The monopolized control of the availability of machines, spare parts, and technical support by foreign corporations could seriously jeopardize our national security.

5. Keeping jobs in America and equal taxation of foreign corporations were other major issues in the recent elections. If our Government decides to change its' foreign corporation taxation policies Cookson/Electrovert could very well decide to move its' production out of the United States, resulting in more lost American jobs.

In summary, the proposed final judgement to the referenced suit is not favorable to the citizens of the United States of America, and I ask that you withdraw your support.

The only viable solution is the divestiture of Hollis by Cookson/Electrovert to a viable

U.S. corporation, and the return of Hollis to its' fiscal and technical position prior to acquisition.

Sincerely,

Ronald Herbert.

CC: President George Bush, President-Elect Bill Clinton, Mr. Ross Perot.

U.S. Department of Justice

Antitrust Division

Dated: January 8, 1993.

Mr. Ronald Herbert,
Precision Sales, 5 Vista Del Ponto, San Clemente, CA 92672.

Re: *United States* v. *Cookson Group, plc, Electrovert Ltd., and Electrovert U.S.A. Corp,. Civil Action 92–2206.*

Dear Mr. Herbert:

This letter responds to your letter dated November 9, 1992, commenting on the proposed Final Judgment in the above-referenced civil antitrust case, which challenges the acquistion of the assets of Hollis Automation Company ("Hollis") by Cookson Group, plc's wholly-owned subsidiary, Electrovert U.S.A. Corp. ("Electrovert"). The Complaint alleges that the acquisition, as originally structured, violated section 7 of the Clayton Act, as amended, 15 U.S.C. 18, because its effects may be substantially to lessen competition in the North American high performance and mid-range wave soldering machine markets. Under the proposed Final Judgment, Electrovert would be required to license Hollis' wave soldering technology, including Hollis' patented "hot air knife," to two of four current industry participants. The Licenses are designed to eliminate the anticompetitive effects arising from Electrovert's acquisition of Hollis' wave soldering machine assets by enabling these firms to reposition their products to replace competition that would otherwise be lost by the acquisition and allow these firms to effectively meet the full variety of customer needs for high performance and mid-range wave soldering machines.

You expressed concern that the two largest wave soldering manufacturers in the United States are now owned by a single foreign corporation and that three of the four possible licensees of the "hot air knife" and other Hollis technology are also foreign corporations. The impact of this, you state, could affect the strength of American industry, impede technological innovations in wave soldering, and impact spare parts availability in the United States.

The mandate of the Antitrust Division ("Division") when reviewing any acquisition is to determine whether the effect of the acquisition may be substantially to lessen competition for a particular relevant market within a defined geographic area. The antitrust laws that govern this review process are nationality neutral. Those laws protect against the possibility that a merger could enable the resulting firm to exercise market power and harm U.S. consumers through higher prices or reduced output. In assessing the likelihood of these potential effects, the antitrust laws do not distinguish between foreign and domestic companies that wish to purchase domestic companies since it is the likelihood of harm—rather than its possible source—with which the antitrust laws are concerned.

It is true that since Electrovert acquired Hollis' wave soldering assets, Technical Devices is the only United States company to manufacture high performance and mid-range wave soldering machines. Although three of the four possible licensees, Sensbey Incorporated ("Sensbey"), Soltec International B.V. ("Soltec"), and Seitz and Hohnerlein ("Seho"), are owned by foreign parents, each company has made a substantial investment in the United States wave soldering market. Each company has offices, trained sales staff and service technicians, spare parts inventory, demonstration facilities, and proven track records for reliability in both foreign and domestic markets. In addition, two of these companies are contemplating building wave soldering machine manufacturing facilities in the United States. Each firm, including Technical Devices, appears well positioned to compete effectively in the North American high performance and mid-range wave soldering machine markets.

After an extensive investigation, we determined that the proposed Final Judgment likely would be procompetitive and would encourage technological innovation in wave soldering. About 75 percent of Hollis' wave soldering machine sales included the "hot air knife." Licensing the "hot air knife" would expand the competitive choices currently available to air knife customers that previously had only one source. Licensing the air knife also is attractive because the air knife likely will gain importance over the next several years as component density on printed circuit boards increases. Although Electrovert and Hollis have been the technological leaders in wave soldering, the proposed licensees have made and likely will continue to make important technological contributions to this industry. Sensbey introduced the first high performance wave soldering machine to North America, while Soltec and Seho were the first to manufacture and market nitrogen-inert atmosphere wave soldering machines.

We understand that incorporating the "hot air knife" will require design changes to all of the proposed licensees' wave soldering machines and that some machines will require more extensive changes than others. However, the proposed Final Judgment requires Electrovert to demonstrate to our satisfaction that each proposed licensee has the capability and incentive to produce wave soldering machines incorporating the "hot air knife" and compete effectively in the sale of these wave soldering machines in North America within one year from the date of the license. To satisfy us that the proposed licensees have the economic incentive to redesign their machines to accept the hot air knife, Electrovert may have to offer worldwide licenses, rather than the North American licenses that would be required by the proposed Final Judgment. If Electrovert does not secure two acceptable licenses within the timetable outlined in the proposed Final Judgment, a trustee will be appointed to satisfy the requirement.

During our investigation, we concluded that de novo entry into the North American high performance or mid-range wave soldering machine market would not be timely, likely, or sufficient to ameliorate the lessening of competition that would result from this transaction. However, the proposed licensees are all manufacturers of either high performance or mid-range wave soldering machines, or both. Redesigning their machines to accommodate the "hot air knife" would take much less time and money than de novo entry.

Finally, you expressed concern that Electrovert may jeopardize spare parts availability in the United States. Spare parts availability is crucial to success for any wave soldering manufacturer and is a profitable part of its business. If Electrovert were to cut back on available spare parts in the United States, it would seriously impact on its future sales. Even if Electrovert moved its manufacturing facilities out of the United States, parts required by customers could be inventoried here or could likely be obtained within 24 hours by using overnight mail services. Because of the critical nature of spare parts availability to reputation and future success for the manufacturer, Electrovert is unlikely to jeopardize spare parts availability in the United States and North America.

We appreciate your bringing your concerns to our attention, and hope that this information will help to alleviate them. While we understand your concerns, we believe that the proposed Final Judgment would adequately safeguard competition for high performance and mid-range wave soldering machines in North America and that entry of the proposed Final Judgment is in the public interest. Pursuant to the Antitrust Procedures and Penalties Act, a copy of your letter and this response will be published in the **Federal Register** and filed with the Court.

Sincerely,

P. Terry Lubeck,
Chief, Litigation II Section.

Sudouest Import Sales Corp.

Dated: November 16, 1992.

Mr. Terry Lubek,
Chief Litigation II Section, U.S. Department of Justice, Antitrust Division, 555 Fourth Street N.W., Room 10–437, Washington, D.C. 20001.

Re: Civil Action # 92–2206, *U.S. of America* VS. *Cookson Group P.L.C., Electrovert, Ltd., and Electrovert, U.S.A., Corp.*

Dear Mr. Lubek:

Our company is an industrial electronic manufacturer's representative firm which has represented Hollis Automation in the Caribbean area for the past 22 years. I personally have been involved with the electronic industry, specifically pertaining to automatic soldering for the past 26 years. As such I have a few observations and objections to the above mentioned acquisition of Hollis Automation by the Cookson Group.

I specifically deem this move to have a negative impact on the U.S. economy, the U.S. Electronic Industry and the Security of the United States.

The primary purpose of this purchase of Hollis Automation by the Cookson Group was to eliminate their primary competition. This is clearly demonstrated by the almost immediate elimination of much of the Hollis product line and the transfer of the Hollis Aqueous Cleaners products to the Electrovert plant in Missouri.

As a result of this purchase the two largest wave soldering equipment manufacturers are now foreign owned. It has been precisely the competition between Hollis and Electrovert which has advanced the technology in the wave soldering industry. The U.S. has been the world leaders in the industry since mass soldering was invented, now we are relegated to a secondary stature.

Since Hollis and Electrovert are now one, Electrovert controls well over 50% of the total market. All other soldering companies combined and specifically the only two remaining U.S. companies, "Technical Devices and John Treiber", do not have the resources necessary to supplant either Hollis or Electrovert in terms of product development in order to maintain the U.S. position of technological leadership in the electronics industry.

One of Hollis' most important technological advances is the hot air knife solder debridging system known as the "Accuknife". Although not a system which is a requirement for all companies doing wave soldering, it is nevertheless one of the most sophisticated processes in our industry. It is capable of producing soldering results unachievable by any other means. This process has long been a serious competitive factor against Electrovert's sales efforts. Now Electrovert owns the process. Since for years they have down played the attributes of the "Accuknife" in order to preserve their credibility in the market, they will have to continue this marketing tactic to the detriment of the industry in general.

The "Accuknife" is not a system which can be readily adapted to existing machines. This is born out by several attempts by secondary market manufacturers to develope a bolt-on accessory airknife to be added to existing equipment. All these attempts failed. An "Accuknife" system must be designed starting with a clean sheet of paper. Much experimentation and adjustment must take place before a viable, reliable and effective system is developed.

Although there have been several companies proposed as licensees of the Accuknife process, it is doubtful any of them will be able to afford the asking price for the license, develope a viable system and market the same, while keeping the cost of the equipment competitive with existing equipment.

The obvious outcome of all this is the loss of the United States technical leadership particularly with respect to the "Accuknife" process, and the loss of this process to the electronic industry in general.

Furthermore numerous companies throughout the country are equipped with and rely upon their "Accuknife" machines. The loss of the Hollis support for this pool of functioning system will undoubtedly compromise these companies' competitive abilities in the global market.

The complaint filed left an entire family of equipment unaddressed. The "Aqueous Cleaners" made by Hollis and Electrovert also dominate this segment of the market. Yet no mention is made of the fact that Electrovert for many years tried unsuccessfully to break into the polypropalene or plastic cleaner market. Almost immediately after the acquisition, Electrovert moved the entire production line of Hollis plastic cleaners to their Missouri plant. Once again this leaves only a handful of smaller companies to compete with the Electrovert giant.

The entire electronics industry, be it commercial, industrial, consumer, or military depends extensively on the wave soldering process. With the loss of Hollis, the U.S. is losing the largest and only real competitor to the other large wave soldering equipment manufacturer in the industry and losing it to a foreign country.

Some years ago the United States dominated the shoe manufacturing industry. United Shoe Machinery (U.S.M.) in Massachussets was the world's leader in shoe manufacturing equipment production. A suit brought by the U.S. Department of Commerce compelled U.S.M. to divest itself of many corporation divisions and activities. Within a few years the company was crippled beyond repair. Today the U.S. shoe manufacturing industry is almost non-existent.

How many more industries must we decimate before we learn that many of our country's laws favor foreign companies at the expense of our own?

It is my opinion that the only fair and just action is to require Electrovert/Cookson to divest itself of Hollis in its entirety to a U.S. company. We *must stop* shooting ourselves in the foot!

Sincerely,

Sudouest Import Sales Co. Inc.

Carlos R. Hinojosa.

xc: Mr. Bill Clinton,

President elect.

Mr. Carols Romero Barcelo,

Resident Commissioner.

U.S. Department of Justice

Antitrust Division

Dated: January 8, 1993.

Mr. Carlos Hinojosa,

Sudouest Import Sales Corporation, 555 Calle Rosales, Santurce, Puerto Rico 00909–2099.

Re: *United States* v. *Cookson Group, plc, Electrovert Ltd., and Electrovert U.S.A. Corp., Civil Action 92–2206.*

Dear Mr. Hinojosa:

This letter responds to your letter dated November 16, 1992, commenting on the proposed Final Judgment in the above-referenced civil antitrust case, which challenges the acquisition of the assets of Hollis Automation Company ("Hollis") by Cookson Group, plc's wholly-owned subsidiary, Electrovert U.S.A. Corp. ("Electrovert"). The Complaint alleges that the acquisition, as originally structured, violated section 7 of the Clayton Act, as amended, 15 U.S.C. 18 ("Clayton Act"), because its effects may be substantially to lessen competition in the North American high performance and mid-range wave soldering machine markets. Under the proposed Final Judgment, Electrovert would be required to license Hollis' wave soldering technology, including Hollis' patented "hot air knife," to two of four current industry participants. The licenses are designed to eliminate the anticompetitive effects arising from Electrovert's acquisition of Hollis' wave soldering machine assets by enabling these firms to reposition their products to replace competition that would otherwise be lost by the acquisition and to effectively meet the full variety of customer needs for high performance and mid-range wave soldering machines.

You expressed concern that the two largest wave soldering manufacturers in the United States are now owned by a single foreign corporation and that three of the four possible licensees of the "hot air knife" and other Hollis technology are also foreign corporations. The impact of this, you state, could affect the strength of American industry and impede technological innovations in wave soldering, and, you suggest, even impact spare parts availability in the United States.

The mandate of the Antitrust Division ("Division") when reviewing any acquisition is to determine whether the effect of the acquisition may be substantially to lessen competition for a particular relevant market within a defined geographic area. The antitrust laws that govern this review process are nationality neutral. Those laws protect against the possibility that a merger could enable the resulting firm to exercise market power and harm U.S. consumers through higher prices or reduce output. In assessing the likelihood of these potential effects, the antitrust laws do not distinguish between foreign and domestic companies that wish to purchase domestic companies since it is the likelihood of harm—rather than its possible source—with which the antitrust laws are concerned.

It is true that since Electrovert acquired Hollis' wave soldering assets, Technical Devices is the only United States company to manufacture high performance and mid-range wave soldering machines. Although three of the four possible licensees, Sensbey Incorporated ("Sensbey"), Soltec International B.V. ("Soltec"), and Seitz and Hohnerlein ("Seho"), are owned by foreign parents, each company has made a substantial investment in the United States wave soldering market. Each company has offices, trained sales staff and service technicians, spare parts inventory, demonstration facilities, and proven track records for reliability in both foreign and domestic markets. In addition, two of these companies are contemplating building wave soldering machine manufacturing facilities in the United States. Each firm, including Technical Devices, appears well positioned to compete effectively in the North American high performance and mid-range wave soldering machine markets.

After an extensive investigation, we determined that the proposed Final Judgment likely would be procompetitive and would encourage technological innovation in wave

soldering. About 75 percent of Hollis' wave soldering machine sales included the "hot air knife." Licensing the "hot air knife" would expand the competitive choices currently available to air knife customers that previously had only one source. Licensing the air knife also is attractive because the air knife likely will gain importance over the next several years as component density on printed circuit boards increases. Although Electrovert and Hollis have been the technological leaders in wave soldering, the proposed licensees have made and likely will continue to make important technological contributions to this industry. Sensbey introduced the first high performance wave soldering machine to North America, while Soltec and Seho were the first to manufacture and market nitrogen-inert atmosphere wave soldering machines.

We understand that incorporating the "hot air knife" will require design changes to all of the proposed licensees' wave soldering machines and that some machines will require more extensive changes than others. However, the proposed Final Judgment requires Electrovert to demonstrate to our satisfaction that each proposed licensee has the capability and incentive to produce wave soldering machines incorporating the "hot air knife" and compete effectively in the sale of these wave soldering machines in North America within one year from the date of the license. To satisfy us that the proposed licensees have the economic incentive to redesign their machines to accept the hot air knife, Electrovert may have to offer worldwide licenses, rather than the North American licenses that would be required by the proposed Final Judgment. If Electrovert does not secure two acceptable licenses within the timetable outlined in the proposed Final Judgment, a trustee will be appointed to satisfy the requirement.

During our investigation, we concluded that de novo entry into the North American high performance or mid-range wave soldering machine market would not be timely, likely, or sufficient to ameliorate the lessening of competition that would result from this transaction. However, the proposed licensees are all manufacturers of either high performance or mid-range wave soldering machines, or both. Redesigning their machines to accommodate the "hot air knife" would take much less time and money than de novo entry.

You expressed concern that Electrovert may jeopardize spare parts availability in the United States. Spare parts availability is crucial to success for any wave soldering manufacturer and is a profitable part of its business. If Electrovert were to cut back on available spare parts in the United States, it would seriously impact on its future sales. Even if Electrovert moved its manufacturing facilities out of the United States, parts required by customers could be inventoried here or could likely be obtained within 24 hours by using overnight mail services. Because of the critical nature of spare parts availability to reputation and future success for the manufacturer, Electrovert is unlikely to jeopardize spare parts availability in the United States and North America.

Finally, you also expressed concern that the Competitive Impact Statement did not address aqueous cleaners. This was not an oversight. Hollis manufactures only a plastic aqueous cleaner, while Electrovert manufactures only a stainless steel cleaner, which is more durable and expensive than plastic cleaners. Although both products will clean a printed circuit board, our analysis determined that these two types of aqueous cleaners are not in the same relevant product market because consumers generally do not view stainless steel cleaners as good substitutes for plastic aqueous cleaners even if prices for the latter were increased by 5 to 10 percent for a significant period of time.

We appreciate your bringing your concerns to our attention, and hope that this information will help to alleviate them. While we understand your concerns, we believe that the proposed Final Judgment would adequately safeguard competition for high performance and mid-range wave soldering machines in North America and that entry of the proposed Final Judgment is in the public interest. Pursuant to the Antitrust Procedures and Penalties Act, a copy of your letter and this response will be published in the **Federal Register** and filed with the Court.

Sincerely,

P. Terry Lubeck,

Chief, Litigation II Section.

Christopher Hill

Dated: November 20, 1992.

Mr. P. Terry Lubeck,

Department of Justice, 555 Fourth Street, NW., room 10–437, Washington, DC 20001.

Dear Mr. Lubeck:

The judgement rendered in the 9/29/92 Civil Action Number 92–2206 is the very reason Bill Clinton will occupy the White House for the next four years. This decision has left only one semi-viable manufacturer of wave soldering equipment in the United States. (Technical Devices) The fact that Electrovert was able to acquire and eliminate Hollis Automation is appalling.

I have enclosed a summary page from the 1991 Ceeris Report, which summarized the 1990 wave soldering sales in North America. The acquisition allowed Electrovert to move from 45% market share of wave soldering systems to 66% share. Obviously, I do not understand what constitutes a monopoly but as a recently laid off sales manager for Hollis Automation, I certainly recognize restraint of trade.

Electrovert has already virtually eliminated most of the Hollis wave soldering equipment from their 1993 product line. Licensing air knife technology to the competition is like giving a slide ruler to a four year old. They barely understand what it does, much less how to use it. I expect air knife technology will all but disappear within several years.

With higher tariffs coming on imports, the net result will be higher prices and fewer choices for U.S. customers. In addition, Electrovert has changed directions and virtually laid off everyone at Hollis. More unemployment.

While I can appreciate the lawyer's ability to circumvent the law, or its intent, it is a real American tragedy to see this thirty year old company eliminated.

Newly unemployed,

Chris Hill,

Former Western Sales Manager, Hollis Automation.

1990 NORTH AMERICAN MARKET

[In millions of dollars]

Company	Wave Solder	Aqueous cleaning	Semi aqueous
Corpane	.....	.....	0.600
Detrex	.....	.....	0.200
Electrovert (1)	10.300	9.000	.....
Hollis	4.900	2.150	.....
Seho	2.000	.....	.....
Sensbey	<1.000	.....	.....
Soltec (Dover)	1.000	.....	.....
Stoelting	.....	>1.000	.....
Technical devices	3.000	0.300	.....
Treiber	<0.500	2.500	.....
UNIT design	1.000	.....	.....
Vitronics	.....	0.100	1.000
Westek	.....	3.500	.....
Total	23	19	1.8

U.S. Department of Justice

Antitrust Division

Dated: January 8, 1993.

Mr. Christopher Hill,

4000 Medina,

Plano, Texas 75074.

Re: *United States* v. *Cookson Group, plc, Electrovert Ltd., and Electrovert U.S.A. Corp. Civil Action 92–2206.*

Dear Mr. Hill:

This letter responds to your letter dated November 20, 1992, commenting on the proposed Final Judgment in the above-referenced civil antitrust case, which challenges the acquisition of the assets of Hollis Automation Company ("Hollis") by Cookson Group, plc's wholly-owned subsidiary, Electrovert U.S.A. Corp. ("Electrovert"). The Complaint alleges that the acquisition, as originally structured, violated section 7 of the Clayton Act, as amended, 15 U.S.C. 18, because its effects may be substantially to lessen competition in the North American high performance and mid-range wave soldering machine markets. Under the proposed Final Judgment, Electrovert would be required to license Hollis' wave soldering technology, including Hollis' patented "hot air knife," to two of four current industry participants. The license is designed to eliminate the anticompetitive effects arising from Electrovert's acquisition of Hollis' wave soldering machine assets by enabling these firms to reposition their products to replace competition that would otherwise be lost by this acquisition and to meet the full variety of customer needs for high performance and mid-range wave soldering machines.

In your letter, you expressed concern about the size of Electrovert's post-acquisition market share and its impact on the wave soldering market. You also expressed concern that post-acquisition, Technical Devices Company ("Technical Devices") is the only viable wave soldering machine manufacturer in the United States and that the proposed licensees do not have the capability effectively to utilize Hollis' "hot

air knife" technology to compete against Electrovert.

The mandate of the Antitrust Division ("Division") when reviewing an acquisition is to determine whether the effect of the acquisition may be substantially to lessen competition for a particular relevant market within a defined geographic area. Market shares and market concentration are used as indicators of whether the acquisition raises potential adverse competitive concerns. If the acquisition does raise such concerns, we evaluate the competitive effects and determine whether other factors are likely to ameliorate the competitive concerns of the acquisition. In this case, we determined that the acquisition, as originally structured, may substantially lessen competition in high performance and mid-range wave soldering machines but that the proposed Final Judgment would ameliorate these competitive concerns.

During our investigation, we determined that Electrovert's post-acquisition market shares were about 69 percent of high performance wave soldering machines market and about 67 percent of mid-range wave soldering machines market. Further investigation revealed that Electrovert and Hollis high performance and mid-range wave soldering machines were considered by many customers to be close substitutes for each other, mainly because of Hollis' "hot air knife." About 75 percent of Hollis' wave soldering machines sold include the hot air knife. Because many customers considered these machines to be close substitutes, post-acquisition, Electrovert likely could impose an anticompetitive price increase on these machines. We determined that de novo entry would not be timely, likely, to sufficient to ameliorate the likely anticompetitive effects of this acquisition.

We concluded, however, that the proposed Final Judgment likely would be procompetitive. Licensing the "hot air knife" would expand the competitive choices currently available to air knife customers that previously had only one source. Each proposed licensee offers either a high performance or mid-range wave soldering machine, or both. Therefore, redesigning their machines to accommodate the "hot air knife" would not be de novo entry. The proposed Final Judgment is structured to enable the licensees to meet the full variety of customer needs and reposition their product offerings to replace competition that would have otherwise been lost because of this acquisition. Because of these factors, licensing Hollis' technology will assure the continuation of a competitive marketplace despite what the market shares might indicate.

You also expressed concern that after Electrovert's acquisition of Hollis' wave soldering assets, Technical Devices will be the only United States company to manufacture high performance and mid-range wave soldering machines. It is true that since Electrovert acquired Hollis' wave soldering assets, Technical Devices is the only United States company to manufacture high performance and mid-range wave soldering machines. Although three of the four possible licensees, Sensbey Incorporated ("Sensbey"), Soltec International B.V. ("Soltec"), and Seitz and Hohnerlein ("Seho"), are owned by foreign parents, each company has made a substantial investment in the United States wave soldering market. Each company has offices, trained sales staff and service technicians, spare parts inventory, demonstration facilities, and proven track records for reliability in both foreign and domestic markets. In addition, two of these companies are contemplating building wave soldering machine manufacturing facilities in the United States. Each firm, including Technical Devices, appears well positioned to compete effectively in the North American high performance and mid-range wave soldering machine markets.

You expressed concern that the proposed licensees do not have the capability effectively to utilize the "hot air knife" to compete against Electrovert. The benefits of Hollis' "hot air knife" are well known within the industry. The "hot air knife" is believed to minimize soldering defects on the printed circuit board, and evidence suggests the air knife likely will gain importance over the next several years as component density on printed circuit boards increases. We understand incorporating the "hot air knife" will require design changes to all of the proposed licensees' wave soldering machines and that some machines will require more extensive changes than others. However, the proposed Final Judgment requires Electrovert to demonstrate to our satisfaction that each proposed licensee has the capability and incentive to produce wave soldering machines incorporating the "hot air knife" and compete effectively in the sale of these wave soldering machines in North America within one year from the date of the license. To satisfy us that the proposed licensees have the economic incentive to redesign their machines to accept the "hot air knife," Electrovert may have to offer worldwide licenses, rather than the North American licenses that would be required by the proposed Final Judgment. If Electrovert does not secure two acceptable licenses within the timetable outlined in the proposed Final Judgment, a trustee will be appointed to satisfy the requirement.

We appreciate your bringing your concerns to our attention, and hope that this information will help to alleviate them. While we understand your concerns, we believe that the proposed Final Judgment would adequately safeguard competition for high performance and mid-range wave soldering machines in North America and that entry of the proposed Final Judgment is in the public interest. Pursuant to the Antitrust Procedures and Penalties Act, a copy of your letter and this response will be published in the **Federal Register** and filed with the Court.

Sincerely,

P. Terry Lubeck,

Chief, Litigation II Section.

Page & Addison

Dated: November 23, 1992.

Certified Mail P–772–297–537.

Mr. P. Terry Lubeck,

Chief, Litigation II Section, Antitrust Division, U.S. Dept. of Justice, Room 10–437, 555 Fourth Street, NW., Washington, D.C. 20001.

Re: *U.S.A. v. Cookson Group PLC, Electrovert Ltd. and Electrovert U.S.A. Corp.—No. 92–2206 (Antitrust) Our File Reference: A2040.5.100.2.*

Dear Mr. Lubeck:

Enclosed please find RoMox, Inc.'s Objection to Consent Judgment relative to the above-referenced acquisition. Please return the extra file-marked copy to us in the envelope provided in order to confirm timely receipt.

Thank you very much.

Very truly yours,

Page & Addison, P.C.

Jan Browning,

CLA, Certified Legal Assistant.

Enclosure.

cc: Mr. Bob Moxham.

Objection to Consent Judgment

In the United States District Court For The District of Columbia: *United States of America*, Plaintiff, v. *Cookson Group PLC, Electrovert Ltd., and Electrovert U.S.A. Corp.*, Defendants. Civil Action No. 92–2206.

Objection to Consent Judgment

State of Texas, County Of Dallas

Before me, the undersigned authority, personally appeared Robert G. Moxham, President of RoMox, Inc. d/b/a Teamco, who, after being by me duly sworn, upon his oath stated:

"My name is Robert G. Moxham. I am President of RoMox, Inc. d/b/a Teamco and I am duly authorized to make this Affidavit. I am at least eighteen (18) years of age, of sound mind, capable of making this affidavit, and fully competent to testify to the matters stated herein, and I have personal knowledge of each of the matters stated herein, and they are true and correct.

"I am filing this affidavit because Teamco will be directly affected by the acquisition of Hollis Automation Co. ("Hollis") by Electrovert U.S.A. Corp. ("Electrovert"), and the anticompetitive effects of said acquisition, and also because my position and experience in the industry make me personally aware of the anticompetitive impact which this acquisition will have on the industry.

"Since 1988, I have been President of RoMox, Inc., d/b/a Teamco, which has operated in Texas, Oklahoma, Arkansas and Louisiana and in the maquilla industry in Mexico as the exclusive distributor for Hollis in the sales of wave soldering machines, aqueous cleaners and related products for the printed circuit assembly industry. During this period of time, sales volume

for Hollis products were $745,321.10 in 1988, $1,132,986.36 in 1989, and $1,491,175,59 in 1990. As such, the Hollis products were only a significant factor in Teamco's sales and profits, but also in meeting the equipment requirements of industries mass producing printed circuit assemblies. Hollis was the leading producer, or one of the two leading producers of high performance wave soldering machines. Additionally, Hollis' reputation for quality products and for superior service to its customers after the sale made it the leading manufacturer of high performance wave soldering machines.

"There are other manufacturers of high performance wave soldering machines, but they are not truly competitive with Hollis as to volume, type and quality of products made. The only direct competition with Hollis is Electrovert. On information and belief, Hollis and Electrovert share about three-fourths of the market for high performance wave soldering machines.

"A direct and immediate consequence of the acquisition of Hollis by Electrovert is the dismantling of Hollis distribution network and the termination of all but one of Hollis' distributors. Teamco, as a Hollis distributor, has received notice of termination. The immediate impact on Teamco is the loss of a product line which in recent years has accounted for up to 29% of the dollar volume of sales for Teamco. The impact on the industry is to eliminate an independent line of products with the sales and service network associated with that line. As a result, a leading United States manufacturer will disappear, leaving the remaining manufacturers in a greatly weakened competitive position vis-a-vis Electrovert, the foreign-owned, acquiring company. It will also make the market more vulnerable to anticompetitive measures, if any are taken by Electrovert which will control some three-fourths of the production facilities for high performance wave soldering in the North American market.

"The harm to the consumers, that is the various industries which mass produce printed circuit assemblies, is already being manifested. Based on the information which I have received from present customers of Hollis, as well as employees of Hollis, the newly acquired corporation takes a different position with regard to customer service. There is a great back-log in the delivery of replacement and maintenance parts; the showrooms have been downgraded or dismantled; clients are now being charged for site testing machines (Hollis viewed this as part of the sales promotion and never charged the potential client). In brief, the Electrovert/Hollis merger has resulted in a dominance of the market which allows the joint/giant manufacturers to disregard customer service and exert undue influence on the market since there are no true competitors.

Based on years of experience in the field of supplying equipment for electronics assembly, and the acquaintance with the industry not only in the States where it is a sales representative, but throughout the United States, Teamco is in a position to assert that the four companies listed as competitors do not have the volume or resources to be truly competitive to the Electrovert/Hollis merged entity. The licensing of the Hollis technology will not be sufficient to offset the loss of competition resulting from the acquisition of Hollis. Even with Hollis' technology, no two of the proposed licensees would be able to compete with the size and volume of sales, that is the market power, which Electrovert/Hollis has in this highly concentrated market. It is very doubtful that any other competitor could reposition itself within a reasonable time period in reaction to small but significant increases in pricing, or cost-cutting measures which result in a lowering of standards of quality or service to the customers in the market place.

The proposed Final Judgment would not resolve this problem due to the time which would be required for another manufacturer to incorporate Hollis technology. Equipment of the type manufactured by Electrovert and Hollis are capitalized, expensive acquisitions which are purchased by the consumers on an infrequent basis. Additionally, the recognition of Electrovert and Hollis as the principal manufacturers in this field would establish significant hurdles to other competitors to expand their market share.

A significant consideration of the harmful impact on the United States electronics industry, although it may not be among the consideration normally raised in considering the anticompetitive impact of an acquisition such as this, is the fact that the loss of Hollis as a principal competitor decreases the United States role in the electronics industry and increases the foreign domination of the various levels of this industry. The manufacture of assembly equipment impacts directly on the market for components and on the assembly industry, all of which will be damaged with regard to international competition.

Further, Affiant saith not.

Robert G. Moxham.

Subscribed and sworn to before be on this 23rd day of November, 1992, to certify which witness my hand and seal.

Earl H. Pugsley,

Notary Public, State of Texas.

U.S. Department of Justice

Antitrust Division

Dated: January 8, 1993.

Ms. Jan Browning,

Certified Legal Assistant, Page & Addison, P.C., 14651 Dallas Parkway, 7th Floor, Dallas, TX 75246.

Re: *United States* v. *Cookson Group, plc, Electrovert Ltd., and Electrovert U.S.A. Corp. Civil Action 92–2206.*

Dear Ms. Browning:

This letter responds to your letter dated November 23, 1992, and attached affidavit of Mr. Robert Moxham, President of RoMox, Inc. d/b/a Teamco, commenting on the proposed Final Judgment in the above-referenced civil antitrust case, which challenges the acquisition of the assets of Hollis Automation Company ("Hollis") by Cookson Group, plc's wholly-owned subsidiary, Electrovert U.S.A. Corp. ("Electrovert"). The Complaint alleges that the acquisition, as originally structured, violated section 7 of the Clayton Act, as amended, 15 U.S.C. 18, because its effects may be substantially to lessen competition in the North American high performance and mid-range wave soldering machine markets. Under the proposed Final Judgment, Electrovert would be required to license Hollis' wave soldering technology, including Hollis' patented "hot air knife," to two or four current industry participants. The licenses are designed to eliminate the anticompetitive effects arising from Electrovert's acquisition of Hollis' wave soldering machine assets by enabling the licensees to reposition their products to replace competition that would otherwise be lost by this acquisition and to effectively meet the full variety of customer needs for high performance and mid-range wave soldering machines.

Mr. Moxham expressed concern that the acquisition of Hollis' high performance and mid-range wave soldering machines would increase foreign domination of the domestic wave soldering machine market. He also expressed concern that the acquisition has affected domestic spare parts availability and other components of customer service. Finally, he expressed concern that the proposed licensees will be unable to reposition their products by incorporating Hollis' technology in a timely fashion in order to defeat an anticompetitive price increase by Electrovert.

The mandate of the Antitrust Division ("Division") when reviewing any acquisition is to determine whether the effect of the acquisition may be substantially to lessen competition for a particular relevant market within a defined geographic area. The antitrust laws that govern this review process are nationality neutral. Those laws protect against the possibility that a merger could

enable the resulting firm to exercise market power and harm U.S. consumers through higher prices or reduced output. In assessing the likelihood of these potential effects, the antitrust laws do not distinguish between foreign and domestic companies that wish to purchase domestic companies since it is the likelihood of harm—rather than its possible source—with which the antitrust laws are concerned.

It is true that since Electrovert acquired Hollis' wave soldering assets, Technical Devices is the only United States company to manufacture high performance and mid-range wave soldering machines. Although three of the four possible licensees, Sensbey Incorporated ("Sensbey"), Soltec International B.V. ("Soltec"), and Seitz and Hohnerlein ("Seho"), are owned by foreign parents, each company has made a substantial investment in the United States wave soldering market. Each company has offices, trained sales staff and service technicians, spare parts inventory, demonstration facilities, and proven track records for reliability in both foreign and domestic markets. In addition, two of these companies are contemplating building wave soldering machine manufacturing facilities in the United States. Each firm, including Technical Devices, appears well positioned to compete effectively in the North American high performance and mid-range wave soldering machine markets.

Mr. Moxham expressed concern that customers have had difficulty obtaining spare parts since the acquisition and that Electrovert may jeopardize spare parts availability in the future. Spare parts availability is crucial to success for any wave soldering manufacturer and is a profitable part of its business. If Electrovert were to cut back on available spare parts, it would seriously impact on its future sales. Even if Electrovert moved its manufacturing facilities out of the United States, parts required by customers could be inventoried here or could likely be obtained within 24 hours by using overnight mail services. Because of the critical nature of spare parts availability to reputation and future success for the manufacturer, Electrovert is unlikely to jeopardize spare parts availability in the United States and North America.

Based on our extensive investigation, we believe that Mr. Moxham's concern that the proposed licensees would not be able to reposition their product offering to defeat an anticompetitive price increase by Electrovert is unfounded. The investigation revealed that Electrovert and Hollis high performance and mid-range wave soldering machines were considered by many customers to be close substitutes for each other, mainly because of Hollis' "hot air knife." Approximately 75 percent of Hollis' wave soldering machines sales included the "hot air knife." Because many customers considered these machines to be close substitutes, post acquisition, Electrovert could impose an anticompetitive price increase on these machines.

We concluded, however, that licensing the "hot air knife" likely would expand the competitive choices currently available to air knife customers that previously had only one source. Licensing the air knife is attractive because the air knife likely will gain importance over the next several years as component density increases on the printed circuit boards. Each proposed licensee has either a high performance and mid-range wave soldering machine product offering, or both. Redesigning their machines to accommodate the "hot air knife" would take much less time and money than de novo entry. The proposed Final Judgment is structured to enable the licensees to meet the full variety of customer needs and reposition their product offerings to replace competition that would have otherwise been lost because of this acquisition.

We understand that incorporating the "hot air knife" will require design changes to all of the proposed licensees' wave soldering machines and that some machines will require more extensive changes than others. However, the proposed Final Judgment requires Electrovert to demonstrate to our satisfaction that each proposed licensee has the capability and incentive to produce wave soldering machines incorporating the "hot air knife" and compete effectively in the sale of these wave soldering machines in North America within one year from the date of the license. To satisfy us that the proposed licensees have the economic incentive to redesign their machines to accept the hot air knife, Electrovert may have to offer worldwide licenses, rather than the North American licenses that would be required by the proposed Final Judgment. If Electrovert does not secure two acceptable licenses within the timetable outlined in the proposed Final Judgment, a trustee will be appointed to satisfy the requirement.

We appreciate your bringing your concerns to our attention, and hope that this information will help to alleviate them. While we understand your concerns, we believe that the proposed Final Judgment would adequately safeguard competition for high performance and mid-range wave soldering machines in North America and that entry of the proposed Final Judgment is in the public interest. Pursuant to the Antitrust Procedures and Penalties Act, a copy of your letter and this response will be published in the **Federal Register** and files with the Court.

Sincerely,

P. Terry Lubeck,

Chief, Litigation II Section.

JSK Associates, Manufacturers' Representatives

Dated: November 14, 1992.

Mr. P. Terry Lubeck,

Chief, Litigation II Section, U.S. Department of Justice, Antitrust Division, 555 Fourth Street, N.W., Room 10–437, Washington, D.C. 20001.

Re: Civil Action #92 2206, *United States of America* v. *Cookson Group PLC, Electrovert, Ltd., & Electrovert USA Corp.*

Mr. Lubeck:

Writing this letter to you, regarding the above captioned civil action, was a necessity due to the fact that it is detrimental not only to the electronics industry & economy but, also to our country.

As a working member of the electronics industry for more than twenty years I feel that I am qualified to speak with a voice of experience. I have been actively involved with this particular facet of our industry as either a direct employee of Electrovert, then as a representative for Electrovert, a representative for the John Treiber Company, and now as a representative for Hollis.

I have been the president of my own representative organization since 1979. My firm represents several of the major suppliers of equipment & supplies for this industry & I have been actively involved with several trade/industry organizations both locally & on a national level.

Please consider the following.

(A) The purpose of this acquisition was a definite maneuver by the defendant to eliminate the competition. This sale results in leaving only *one* viable manufacturer of wave solder & cleaning equipment owned by a USA organization.

Technical Devices is, by comparison to the newly created "giant", an organization lacking in the technical expertise, capital & the general "where-with-all" to compete in this marketplace. Although the settlement discusses the licensing of "hot air-knife technology" to them, they will not be able to compete for several years, *if ever*! It is relevant to note that Technical Devices was a recent defendant, & loser, in a patent infringement suit with Electrovert.

The John Treiber Company is not, in my opinion as well as that of many others, capable of competing in this market. They have not made any technical advancements with their equipment in several years & they are not financially capable to take on this challenge.

(B) The historical competition between Electrovert & Hollis has been the driving force behind the development of new technologies for our industry. The "Air-Knife" is a direct result of that competition. Hollis spent many years & invested a great deal of capital to develop this tool so as to effectively compete with Electrovert. Now this technology is owned by that competitor!

The licensing arrangement grants this technology to four companies. Three of them are foreign owned organizations. Are companies interested? In my opinion they are not! The time, effort & costs involved to incorporate this technology into their equipment will prohibit its occurrence. By the time any of these licensees has the opportunity to enter this market, should they even try, the Electrovert/Hollis conglomerate will have moved on to some "new" technology due to the fact that they have an extensive technological edge!

The Justice Department, in its comments in this suit, indicates & acknowledges the reality that "entering this market would be nearly impossible!

(C) The issue of the aqueous cleaner division is not addressed. This is a *glaring oversight*. This is the true heart of this acquisition! Electrovert did not purchase Hollis for its wave solder division but did so for its "plastic cleaner" technology.

As a competitor of Electrovert for many years I have been faced many times with their sales technique which was to completely degrade the value of the hot air-knife. Their method of attack was to portray

it as a technically valueless device. I quote, "it's an expensive toy", a "gadget that doesn't work", a "scam" & "a great way to sell spare parts"!

Why would a company that has such little regard for this technology & one who insists it is the "industry leader" with "market control" want to buy its "weaker" competition? The logic behind spending $10,000,000 to acquire the "loser" alludes me.

The motive is clear, *Aqueous cleaners*! Hollis had developed a "state-of-the-art" aqueous product line along with the most modern assembly facility in the world located at their Nashua facility. Electrovert had previously attempted, & failed, to enter this market. Their expertise lay in another area, stainless steel systems. Hollis was becoming the industry leader in this field & Electrovert could not compete. They consistently lost business to Hollis, Treiber & Westek.

The Electrovert philosophy of technical advancement is, "When all else fails—*Buy the competition*". That is exactly what they did!

(D) This has happened before! In the mid-70's Electrovert bought a company that had an expertise they wanted—*stainless steel aqueous cleaners*. Dee Electric Company was a smaller competitor in the wave solder market. What they excelled at was building a technically superior aqueous cleaner. Electrovert wanted their technology so they bought them. The results. Dee Electric no longer exists.

Now it's the early 90's and Electrovert wants plastic cleaners. Hollis has them. Electrovert buys Hollis. The results will be the same, *Hollis disappears*. It is happening! The first thing Electrovert did upon this acquisition was to dismantle the entire plastic production line & move it to Missouri.

(E) It is my understanding that the companies interviewed by the Justice Department were those whose names were furnished by both the buyer & the seller. I see something wrong with that picture. I know that my clients, & I am in one of the largest markets in the U.S., are as amazed as I am that this acquisition is going to be allowed.

(F) In a time when our economy needs to be enhanced & improved, the Justice Department is allowing an acquisition that will result in the loss of hundreds of jobs! An entire viable, productive & economically thriving factory in New Hampshire will be closed!

This closedown will have a trickle-down effect on those who were suppliers to Hollis. No factory, no sales, no jobs! Will this create additional jobs in Missouri? Possibly, but not enough to compensate for all those lost due to this merger.

(G) Our President-elect has indicated that he intends to introduce legislation enabling the taxation of foreign corporations. What will prevent this foreign-owned corporation from moving its production out of the country? Nothing! The results of such a scenario? More job loss, more American technology leaving the country, more trickle-down loss to our economy.

(H) This "hot air-knife" technology is a development of American expertise & ingenuity. Its sale to a foreign organization is another example of the very things that are hurting our nation. We are constantly & rapidly selling off our future. This development could be vital to our national defense & we will not have the right to control it. This is wrong, tragically wrong.

I truly believe that this acquisition should not be allowed to occur. It is detrimental to our industry, our economy & to the people of our country.

I strongly urge you to review the foregoing & recommend that the Justice Department withdraw its approval of this detrimental acquisition.

Very truly yours,

Jerry S. Karp,

President, JSK Associates.

Copy; Pres. G. Bush; Pres. Elect B. Clinton; Sen. D. Feinstein; Sen. Elect B. Boxer; Rep. N. Minetta; Tyler Wilson, Council on Antitrust, U.S. Chamber of Commerce.

Antitrust Division

Dated: January 7, 1993.

Mr. Jerry S. Karp,

President, JSK Associates, 3080 Olcott Street, Suite 120B, P.O. Box 2057, Mission Station, Santa Clara, CA 95054.

Dear Mr. Karp:

Your letter dated November 14, 1992, to President Bush concerning the proposed Final Judgment in *United States* v. *Cookson Group, plc; Electrovert Ltd.; and Electrovert U.S.A. Corp.*, Civil Action No. 92–2206, has been referred to the Department of Justice for response. This matter involves a civil antitrust challenge to the acquisition of the assets of Hollis Automation Company ("Hollis") by Cookson Group, plc's wholly-owned subsidiary, Electrovert U.S.A. Corp. ("Electrovert"). The complaint alleges that the acquisition, as originally structured, violated section 7 of the Clayton Act, as amended, 15 U.S.C. 18, because its effects may be substantially to lessen competition in the North American high performance and mid-range wave soldering machine markets. Under the proposed Final Judgment, Electrovert would be required to license Hollis' wave soldering technology, including Hollis' patented "hot air knife," to two of four current industry participants. The licenses are designed to eliminate the anticompetitive effects that would result from Electrovert's acquisition of Hollis' wave soldering machine assets by enabling the licensees to reposition their products to replace competition that would otherwise be lost by this acquisition and effectively to meet the full variety of customer needs for high performance and mid-range wave soldering machines.

Enclosed with your letter was a letter of the same date you sent to P. Terry Lubeck of the Antitrust Division in which you expressed several concerns. You stated that the two largest wave soldering manufacturers in the United States are now owned by a single foreign corporation, and that three of the four possible licensees of the "hot air knife" and other Hollis technology are also foreign corporations. You stated that this situation could affect the strength of American industry and impede technological innovations in wave soldering.

The antitrust laws are designed to prevent acquisitions that may substantially lessen competition so as to protect against the possibility that a merger could enable the resulting firm to exercise market power and harm U.S. consumers through higher prices or reduced output. The antitrust laws do not distinguish between foreign and domestic companies since it is the likelihood of harm to competition—rather than its possible source—with which the antitrust laws are concerned.

Nevertheless, of the four possible licensees, one, Technical Devices, is a United States company and each of the remaining three—Sensbey Incorporated ("Sensbey"), Soltec International B.V. ("Soltec") and Seitz and Hohnerlein ("Seho")—has made a substantial investment in the United States wave soldering market. Each company has offices, trained sales staff and service technicians, spare parts inventory, demonstration facilities, and proven track records for reliability in the domestic market. In addition, two of the three foreign firms are contemplating building wave soldering machine manufacturing facilities in the United States. Each firm, including Technical Devices, appears well positioned to compete effectively in the North American high-performance and mid-range wave soldering machine markets.

The proposed licensees have made, and likely will continue to make, important technological contributions to this industry. Sensbey introduced the first high-performance wave soldering machine to North America, while Soltec and Seho were the first to manufacture and market nitrogen-inert atmosphere wave soldering machines. Consequently, we do not believe that the proposed Final Judgment will impede technological innovations.

After an extensive investigation, we determined that the proposed Final Judgment likely would solve the competitive concerns associated with the acquisition. Approximately 75 percent of Hollis' wave soldering machine sales included the "hot air knife." Licensing the "hot air knife" would expand the competitive choices currently available to air knife customers that previously had only one source. Licensing the air knife also is attractive because the air knife likely will gain importance over the next several years as component density on printed circuit boards increases.

We understand that incorporating the "hot air knife" will require design changes to all of the proposed licensees' wave soldering machines and that some machines will require more extensive changes than others. However, the proposed Final Judgment requires Electrovert to demonstrate to our satisfaction that each proposed licensee has the capability and incentive to produce wave soldering machines incorporating the "hot air knife" and to compete effectively in the sale of these wave soldering machines in North America within one year from the date of the license. If Electrovert does not secure two acceptable licenses within the timetable outlined in the proposed Final Judgment, a trustee will be appointed to satisfy the requirement.

During our investigation, we concluded that de novo entry into the North American

high-performance or mid-range wave soldering machine market would not be timely, likely, or sufficient to ameliorate the lessening of competition that would have otherwise resulted from this transaction. However, the proposed licensees are all manufacturers of either high-performance or mid-range wave soldering machines, or both. Redesigning their machines to accommodate the "hot air knife" would take much less time and money than would de novo entry.

You also expressed concern that the Competitive Impact Statement did not address aqueous cleaners. This was not an oversight. Hollis manufactures only a plastic aqueous cleaner, while Electrovert manufactures only a stainless steel cleaner, which is more durable and expensive than plastic cleaners. Although both products will clean a printed circuit board, our analysis determined that these two types of aqueous cleaners are not in the same relevant product market because consumers generally do not view stainless steel cleaners as good substitutes for plastic aqueous cleaners even if prices for the latter were to increase by 5 to 10 percent for a significant period to time.

You also expressed concern that this transaction is similar to Electrovert's acquisition of Dee Electric Company ("Dee"), which, you stated, was purchased by Electrovert because of its technologically superior aqueous cleaner. We cannot comment on the similarities or differences between these acquisitions. Each investigation is fact specific, and we have no information concerning the Dee acquisition other than the limited information provided in your letter.

Finally, you stated your understanding that during our investigation, we only interviewed those individuals whose names were provided to us by Electrovert or Hollis. During our extensive investigation, we interviewed numerous customers, sales representatives, competitors, potential entrants, and other individuals in the industry in order to evaluate the likely competitive effects of the acquisition. Contrary to your understanding, the vast majority of the persons we interviewed were selected by us and not by Electovert or Hollis.

We appreciate your effort in bringing these concerns to our attention and hope that this information will help to alleviate them. We believe that the proposed Final Judgment would adequately safeguard competition for high-performance and mid-range wave soldering machines in North America, and that entry of the proposed Final Judgment is in the public interest. Pursuant to the Antitrust Procedures and Penalties Act, a copy of your letter and this response will be published in the **Federal Register** and filed with the Court.

On behalf of the President, I thank you for writing.

Sincerely,

J. Mark Gidley,

Acting Assistant Attorney General.

[FR Doc. 93–1653 Filed 1–26–93; 8:45 am]

BILLING CODE 4410–01–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Importation of Controlled Substances; Application

Pursuant to section 1008 of the Controlled Substances Import and Export Act (21 U.S.C. 958(i)), the Attorney General shall, prior to issuing a registration under this section to a bulk manufacturer of a controlled substance in Schedule I or II and prior to issuing a regulation under section 1002(a) authorizing the importation of such a substance, provide manufacturers holding registrations for the bulk manufacture of the substance an opportunity for a hearing.

Therefore, in accordance with § 1311.42 of title 21, Code of Federal Regulations (CFR), notice is hereby given that on December 7, 1992, Minn-Dak Growers Limited, Highway 81 North, P.O. Box 1276, Grand Forks, North Dakota 58206-1276, made application to the Drug Enforcement Administration to be registered as an importer of Marihuana (7360) a basic class of controlled substance in Schedule I. This application is exclusively for the importation of marihuana seed which will be rendered non-viable and used as bird seed.

Any manufacturer holding, or applying for, registration as a bulk manufacturer of this basic class of controlled substance may file written comments on or objections to the application described above and may, at the same time, file a written request for a hearing on such application in accordance with 21 CFR 1301.54 in such form as prescribed by 21 CFR 1316.47.

Any such comments, objections, or requests for a hearing may be addressed to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, DC 20537, Attention: DEA Federal Register Representative (CCR), and must be filed no later than February 26, 1993.

This procedure is to be conducted simultaneously with and independent of the procedures described in 21 CFR 1311.42 (b), (c), (d), (e), and (f). As noted in a previous notice at 40 FR 43745–46 (September 23, 1975), all applicants for registration to import a basic class of any controlled substance in Schedule I or II are and will continue to be required to demonstrate to the Deputy Assistant Administrator of the Drug Enforcement Administration that the requirements for such registration pursuant to 21 U.S.C. 958(a), 21 U.S.C. 823(a), and 21 CFR 1311.42 (a), (b), (c), (d), (e), and (f) are satisfied.

Dated: January 19, 1993.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 93–1978 Filed 1–26–93; 8:45 am]

BILLING CODE 4410–09–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

Notice: [93–006]

Intent To Grant a Patent License

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Notice of intent to grant an exclusive patent license.

SUMMARY: NASA intends to grant Shinko Boeki Co., Ltd. of Japan, an exclusive, royalty-bearing, revocable license to practice (1) Japan Patent No. 1,134,819, entitled Power Factor Control System for A.C. Induction Motors; (2) Japan Patent No. 1,267,978 and Taiwan Patent No. NI–15705, entitled Three-Phase Power Factor Controller; (3) Japan Patent No. 1,267,996, entitled Motor Power Factor Controller with a Reduced Voltage Starter; and (4) South Korea Patent No. 36,576 and Taiwan Patent No. NI–17849, entitled Pulsed Thyristor Trigger Control Circuit Continued. These patents, in general, pertain to the reduction of energy consumption for electric motors. The patent license will be for a limited number of years and will contain appropriate terms and conditions in accordance with the NASA Patent Licensing Regulations, 14 CFR 1245.200 *set seq.* NASA will grant the patent license in accordance with its licensing regulations unless the Director of Patent Licensing receives written objections to the grant, together with any supporting documentation, within 60 days of the date of this notice. The Director of Patent Licensing will review all written objections to the grant and then recommend to the Associate General Counsel (Intellectual Property) whether to grant the license.

DATES: Written objections to this proposed license grant must be received by March 29, 1993.

ADDRESSES: Written objections should be sent to: National Aeronautics and Space Administration, Code GP, Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Mr. Harry Lupuloff at (202) 358–2041.

Dated: January 13, 1993.

Edward A. Frankle,

General Counsel.

[FR Doc. 93–1935 Filed 1–26–93; 8:45 am]

BILLING CODE 7510–01–M

NATIONAL COMMISSION ON MANUFACTURED HOUSING

Meeting

AGENCY: National Commission on Manufactured Housing.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 101–625, as amended, the National Commission on Manufactured Housing announces a forthcoming meeting of the Commission.

DATES: February 11, 1993, 9 a.m.–5 p.m.; February 12, 1993, 9 a.m.–5 p.m.

ADDRESS: Grand Hyatt Washington, 1000 H Street, NW., Washington, DC 20001.

FOR FURTHER INFORMATION CONTACT: Carmelita R. Pratt, Administrative Officer, The National Commission on Manufactured Housing, (GSA) 7th & D Street, SW., 7109, Washington, DC 20407 (202) 708–5702.

TYPE OF MEETING: Open.

This notice could not be published 15 days prior to this meeting as required by Federal Advisory Committee Act.

Carmelita R. Pratt,

Administrative Officer.

[FR Doc. 93–2015 Filed 1–26–93; 8:45 am]

BILLING CODE 6820–EA–M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Humanity Panel; Meeting

AGENCY: National Endowment for the Humanities, NFAH.

ACTION: Notice of meetings.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, as amended), notice is hereby given that the following meetings of the Humanities Panel will be held at the Old Post Office, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

FOR FURTHER INFORMATION CONTACT: David C. Fisher, Advisory Committee Management Officer, National Endowment for the Humanities, Washington, DC 20506; telephone 202/606–8322. Hearing-impaired individuals are advised that information on this matter may be obtained by contacting the Endowment's TDD terminal on 202/606–8282.

SUPPLEMENTARY INFORMATION: The proposed meetings 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 discussion of information given in confidence to the agency by grant applicants. Because the proposed meetings will consider information that is likely to disclose: (1) Trade secrets and commercial or financial information obtained from a person and privileged or confidential; or (2) information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee meetings, dated September 9, 1991, I have determined that these meetings will be closed to the public pursuant to subsections (c)(4), and (6) of section 552b of title 5, United States Code.

1. *Date:* February 19, 1993.
Time: 8:30 a.m. to 5 p.m.
Room: 415.
Program: This meeting will review Library and Archival Preservation and Access Projects applications, submitted to the Division of Preservation and Access, for projects beginning after July 1, 1993.

2. *Date:* February 26, 1993.
Time: 8:30 a.m. to 5 p.m.
Room: 415.
Program: This meeting will review Library and Archival Preservation and Access Projects applications, submitted to the Division of Preservation and Access, for projects beginning after July 1, 1993.

David C. Fisher,

Advisory Committee Management Officer.

[FR Doc. 93–2021 Filed 1–26–93; 8:45 am]

BILLING CODE 7536–01–M

NUCLEAR REGULATORY COMMISSION

Abnormal Occurrence Report; Section 208 Report Submitted to the Congress

Notice is hereby given that pursuant to the requirements of section 208 of the Energy Reorganization Act of 1974, as amended, the Nuclear Regulatory Commission, (NRC) has published and issued another periodic report to Congress on abnormal occurrences (NUREG–0090, Vol. 15, No. 3).

Under the Energy Reorganization Act of 1974, which created the NRC, an abnormal occurrence is defined as "an unscheduled incident or event that the Commission (NRC) determines is significant from the standpoint of public health or safety." The NRC has made a determination that events involving an actual loss or significant reduction in the degree of protection against radioactive properties of source, special nuclear, and by-product material are abnormal occurrences.

The report to Congress is for the third calendar quarter of 1992. The report identifies the occurrences or events that the Commission determined to be significant and reportable; the remedial actions that were undertaken are also described.

Four abnormal occurrences are discussed in this report. Two involved medical misadministrations (both therapeutic) and one involved an extremity overexposure of a radiographer at NRC-licensed facilities. An abnormal occurrence was reported by an NRC Agreement State. The report also contains information updating a previously reported abnormal occurrence.

A copy of the report is available for inspection or copying for a fee at the NRC Public Document Room, 2120 L Street NW. (Lower Level), Washington, DC 20555, or at any of the nuclear power plant Local Public Document Rooms throughout the country.

Copies of NUREG–0090, Vol. 15, No. 3 (or any of the previous reports in this series), may be purchased from the Superintendent of Documents, U.S. Government Printing Office, Post Office Box 37082, Washington, DC 20013–7082.

A year's subscription to the NUREG–0090 series publication, which consists of four issues, is also available.

Copies of the report may also be purchased from the National Technical Information Service, U.S. Department of Commerce, 5285, Port Royal Road, Springfield, VA 22161.

Dated at Rockville, MD this 21st day of January 1993.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 93–1949 Filed 1–26–93; 8:45 am]

BILLING CODE 7590–01–M

Documents Containing Reporting or Recordkeeping Requirements; Office of Management and Budget (OMB) Review

AGENCY: U.S. Nuclear Regulatory Commission (NRC).

ACTION: Notice of the OMB review of information collection.

SUMMARY: The NRC has recently submitted to the OMB for review the

following proposal for the collection of information under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. chapter 35).

1. Type of submission, new, revision, or extension: New (Expedited OMB review requested within 30 days).

2. The title of the information collection: NRC Survey: "Assessment of the NRC Operator Licensing Program," and follow-up interview.

3. The form number if applicable: Not applicable.

4. How often the collection is required: One time for the initial survey and one time for a follow-up interview with a small percentage of the survey respondents.

5. Who will be asked to report: A sample of nuclear industry personnel; including members of the Professional Reactor Operator Society (PROS), the Nuclear Management Resource Council (NUMARC), and the Institute for Nuclear Power Operations (INPO); as well as a cross-section of plant facility personnel.

6. An estimate of the number of responses annually: 144 (120 survey responses and 24 interviews).

7. An estimate of the total number of hours needed annually to complete the requirement or request: 84 hours (30 minutes per survey and one hour per interview).

8. An indication of whether section 3504(h), Pub. L 96–511 applies: Not applicable.

9. Abstract: NRC plans to conduct a voluntary survey and follow-up interviews with a sample of nuclear industry personnel as part of an evaluation of the NRC operator licensing program. The primary objectives of the survey are to:

(1) Identify problems with examination consistency, quality, efficiency, and management of the operator licensing program and determine whether these problems are the result of decentralization.

(2) Identify the advantages and disadvantages of a centralized versus a decentralized approach to operator licensing.

(3) Identify other recentralization issues; such as, transfer of responsibility, and relocation of employees.

Copies of the submittal may be inspected or obtained for a fee from the NRC Public Document Room, 2120 L Street, NW. (Lower Level), Washington, DC.

Comments and questions should be directed to the OMB reviewer: Ronald Minsk, Office of Information and Regulatory Affairs, (3150–), NEOB–3019, Office of Management and Budget, Washington, DC 20503.

Comments can also be submitted by telephone at (202) 395–3084.

The NRC Clearance Officer is Brenda Jo. Shelton, (301) 492–8132.

Dated at Bethesda, Maryland, this 19th day of January 1993.

For the Nuclear Regulatory Commission.

Gerald F. Cranford,

Designated Senior Official for Information Resources Management.

[FR Doc. 93–1946 Filed 1–26–93; 8:45 am]

BILLING CODE 7590–01–M

Advisory Committee on Nuclear Waste; Meeting

The 50th meeting of the Advisory Committee on Nuclear Waste (ACNW) scheduled to be held Wednesday and Thursday, January 27 and 28, 1993, 8:30 a.m. until 6 p.m., room P–110, 7920 Norfolk Avenue, Bethesda, MD has been revised as follows:

Portions of this meeting may be closed to public attendance if deemed necessary to protect information provided in confidence by a foreign source (5 U.S.C. 552b(c)(4); 10 CFR 2.790(d)(2)), information that relates solely to the internal personnel rules and practices of the ACNW (5 U.S.C. 552b(c)(2)), and information the release of which would represent a clearly unwarranted invasion of personal privacy (5 U.S.C. 552b(c)(6)). These sessions will be devoted to meeting with the National Radiological Protection Board of the United Kingdom to discuss information provided by the Board regarding standards for a high-level radioactive waste repository and ACNW office structure and personnel.

Notice of this meeting was published in the **Federal Register** on Wednesday, January 12, 1993 (58 FR 3982). All other items pertaining to this meeting remain the same as previously published.

Dated: January 21, 1993.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 93–1948 Filed 1–26–93; 8:45 am]

BILLING CODE 7590–01–M

Advisory Committee on Reactor Safeguards; Meeting Agenda

In accordance with the purposes of sections 29 and 182b. of the Atomic Energy Act (42 U.S.C. 2039, 2232b), the Advisory Committee on Reactor Safeguards will hold a meeting on February 11–13, 1993, in Room P–110, 7920 Norfolk Avenue, Bethesda, Maryland. Notice of this meeting was published in the **Federal Register** on December 23, 1992.

Thursday, February 11, 1993

8:30 a.m.–8:45 a.m.: Opening Remarks by ACRS Chairman (Open)—The ACRS Chairman will make opening remarks regarding conduct of the meeting and comment briefly regarding items of current interest. The Committee will discuss priorities for preparation of reports during this session.

8:45 a.m.–11 a.m.: Key Policy Issues for Preapplication Designs (Open)—The Committee will review and comment on key policy issues identified by the NRC staff for resolution with respect to advanced reactor designs such as the MHTGR, PIUS, PRISM, and CANDU–3. Representatives of the NRC staff, the Department of Energy, and the industry will participate, as appropriate.

11 a.m.–11:45 a.m.: Schedules of NRC Review of Proposed Advanced Reactor Designs (Open)—The Committee will hear a briefing by and hold discussions with representatives of the NRC staff on the current schedules for the NRC staff's review of proposed advanced reactor designs.

12:45 p.m.–2:15 p.m.: FitzPatrick Nuclear Power Plant (Open)—The Committee will hear a briefing and hold discussions regarding restart of the Fitzpatrick nuclear plant following an extended shutdown for plant and organizational changes. Representatives of the licensee and of the NRC staff will participate, as appropriate.

2:15 p.m.–4:30 p.m.: NRC Regulatory Review Group (Open)—The Committee will discuss the proposed charter for and activities of the NRC Regulatory Review Group. The purpose of this group will be to conduct a comprehensive and disciplined review of power reactor regulations and related NRC process, programs, and implementation practices. Representatives of the NRC staff and of the industry will participate, as appropriate.

4:30 p.m.–5 p.m.: Appointment of New Members (Open/Closed)—The Committee will discuss the qualifications of candidates proposed for appointment to the Committee.

Portions of this session will be closed to discuss information the release of which would represent a clearly unwarranted invasion of personal privacy.

5 p.m.–5:30 p.m.: Preparation of ACRS Reports (Open)—The Committee will discuss proposed reports regarding items considered during this meeting.

Friday, February 12, 1993

8:30 a.m.–10 a.m.: Multiple System Responses Program (Open)—The Committee will hear a briefing by and hold discussions with representatives of the NRC staff regarding the status of the staff's work for dealing with the potential generic safety issues identified in the Multiple System Responses Program.

10:15 a.m.–11:45 a.m.: Atomic Safety and Licensing Board Panel Activities (Open)—The Committee and representatives of the Atomic Safety and Licensing Board Panel (ASLBP) will discuss matters of mutual interest, including the current and anticipated activities of the Atomic Safety and Licensing Board Panel.

11:45 a.m.–12:30 p.m.: Preparation of ACRS Reports (Open)—The Committee will discuss proposed reports regarding items considered during this meeting.

1:30 p.m.–3 p.m.: Briefing on Recent Changes to the Regulations on the Conduct of Government Employees (Open)—The Committee will hear a briefing by and hold discussions with representatives of the NRC Office of the General Counsel on the impact on ACRS members regarding the implementation of the recent Office of Government Ethics government-wide changes to the regulation on the conduct of government employees.

3:15 p.m.–5:15 p.m.: Research on Organizational Factors (Open)—The Committee will hear a briefing and hold discussions regarding NRC-sponsored research on organizational factors. Representatives of the NRC staff and of the industry will participate, as appropriate.

5:15 p.m.–6 p.m.: Future ACRS Activities (Open)—The Committee will discuss the report of the Planning and Procedures Subcommittee regarding items proposed for consideration by the full Committee.

Saturday, February 13, 1993

8:30 a.m.–11 a.m.: Preparation of ACRS Reports (Open)—The Committee will discuss proposed Committee reports regarding items considered during this meeting.

11 a.m.–12 Noon: Activities of ACRS Subcommittees (Open)—The Committee will hear reports on and hold discussions of the status of ACRS subcommittee assignments, including the conduct of Committee activities by the Planning and Procedures Subcommittee, use of digital instrumentation and control systems in nuclear power plants, the ABB–CE System 80+ design, and procedures for conduct of ACRS business. Representatives of the NRC staff will participate, as appropriate.

12 Noon–12:30 p.m.: Reconciliation of ACRS Comments and Recommendations (Open)—The Committee will discuss responses received from the NRC staff on recommendations made in ACRS reports. Representatives of the NRC staff will participate, as appropriate.

12:30 p.m.–1 p.m.: Miscellaneous (Open)—The Committee will discuss matters considered but not completed at previous meetings as time and availability of information permit.

Procedures for the conduct of and participation in ACRS meetings were published in the **Federal Register** on October 16, 1992 (57 FR 47494). In accordance with these procedures, oral or written statements may be presented by members of the public, recordings will be permitted only during those open portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Committee, its consultants, and staff. Persons desiring to make oral statements should notify the Acting ACRS Executive Director, Dr. John T. Larkins, as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements. Use of still, motion picture, and television cameras during this meeting may be limited to selected portions of the meeting as determined by the Chairman. Information regarding the time to be set aside for this purpose may be obtained by a prepaid telephone call to the Acting ACRS Executive Director prior to the meeting. In view of the possibility that the schedule for ACRS meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should check with the Acting ACRS Executive Director if such rescheduling would result in major inconvenience.

I have determined in accordance with Subsection 10(d) Public Law 92–463 that it is necessary to close portions of this meeting noted above to discuss information the release of which would represent a clearly unwarranted invasion of personal privacy per 5 U.S.C. 552b(c)(6).

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted can be obtained by a prepaid telephone call to the Acting ACRS Executive Director, Dr. John T. Larkins (telephone 301–492–4516), between 8 a.m. and 4:30 p.m. EST.

Dated: January 21, 1993.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 93–1950 Filed 1–26–93; 8:45 am]

BILLING CODE 7590–01–M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Notice of Establishment of Dispute Settlement Panel Concerning U.S. Import Restrictions on UHT Milk

AGENCY: Office of the United States Trade Representative.

ACTION: Notice.

SUMMARY: The Office of the United States Trade Representative (USTR) is providing notice that the Canada-United States Trade Commission (Commission) has established a dispute settlement panel under the United States-Canada Free-Trade Agreement to review a complaint by Canada against regulations governing the importation of ultra-high temperature (UHT) milk into Puerto Rico.

DATES: The panel is currently scheduled to issue its report by April 7, 1993.

FOR FURTHER INFORMATION CONTACT: Jeanne Davidson, Associate General Counsel, or Daniel Brinza, Senior Advisor and Special Counsel for Natural Resources, Office of the General Counsel, USTR, 600 17th Street NW. Washington, DC 20506, (202) 395–3432 or (202) 394–7305, respectively.

SUPPLEMENTARY INFORMATION: As a result of recently adopted regulations by the Commonwealth of Puerto Rico, UHT milk from Canada is no longer permitted to be imported into Puerto Rico.

The Government of Canada has requested the establishment of a dispute settlement panel under the terms of the United States-Canada Free-Trade Agreement to determine whether the Commonwealth of Puerto Rico's measure is inconsistent with the obligations of the United States under the United States-Canada Free-Trade Agreement.

The panel will conduct its proceedings in accordance with article 1807 of the United States-Canada Free-Trade Agreement and is currently scheduled to issue its final report by April 7, 1993.

Gary R. Edson,

General Counsel.

[FR Doc. 93–2013 Filed 1–26–93; 8:45 am]

BILLING CODE 3190–01–M

Presidential Decision Under Section 330(D) of the Tariff Act of 1930 on Imports of Extruded Rubber Thread

AGENCY: Office of the United States Trade Representative.

ACTION: Notice of Presidential action under section 330(d) of the Tariff Act of 1930, as amended, on imports of extruded rubber thread.

On January 15, 1993, President Bush selected as the determination of the United States International Trade Commission (ITC) the views of those Commissioners who found that increased imports of extruded rubber thread are not a substantial cause of serious injury, or a threat of serious injury, to the U.S. domestic industry producing like or directly competitive products. Accordingly, no import relief measures will be taken under the provisions (section 203) of the Trade Act of 1974 in this case.

On October 15, 1992, the ITC, by an evenly divided 3–3 vote of its six members, reported to the President both an affirmative and a negative finding on the question of import injury to the rubber thread industry, based on its investigation pursuant to a petition filed by two U.S. manufacturers of rubber thread. Under section 330(d) of the Tariff Act of 1930, as amended, 19 U.S.C. 1330(d), the President has the authority to select the views of either group of Commissioners as the determination of the Commission.

Section 201 of the Trade Act of 1974 requires that certain conditions be met for an industry to be eligible for import relief. Having reviewed all of the pertinent data and submissions by interested parties, the President has selected the views of those Commissioners who determined that the statutory criteria were not satisfied; specifically, that imports were not a substantial cause of the decline experienced by the U.S. industry. The decline stemmed from the closure of the major U.S. manufacturer of rubber thread in 1990; that closure resulted from a corporate decision by the manufacturer's ultimate shareholders to consolidate manufacturing operations in Malaysia.

Consistent with this decision, therefore, no import relief measures will be applied.

FOR FURTHER INFORMATION CONTACT: David Strother, Director, Chemical Industry Trade Policy, (202) 395–5656.

Frederick L. Montgomery,

Chairman, Trade Policy Staff Committee.

[FR Doc. 93–2007 Filed 1–26–93; 8:45 am]

BILLING CODE 3190–01–M

Extension of Tariff Rate Quotas for Non-Wool Fabrics and Made-Up Goods Under the United States-Canada Free Trade Agreement

AGENCY: Office of the United States Trade Representative.

ACTION: Notice of and request for comments on the extension of tariff rate quotas for Canada for non-wool fabric and made-up goods for one year.

SUMMARY: Section 202(d)(2) of the United States-Canada Free-Trade Agreement Implementation Act of 1988 ("FTA Implementation Act") grants the President, subject to consultation and layover requirements of section 103 of that Act, the authority to proclaim such modification to the rules of origin as may from time-to-time be agreed upon by the United States and Canada. This notice is intended to inform the public of a modification to Rule 18 of the rules of origin of the United States-Canada Free Trade Agreement (FTA). The modification may be proclaimed on or after March 22, 1993 and will cover the period January 1, 1993 to December 31, 1993.

DATES: Public comments are due February 26, 1993.

ADDITIONAL INFORMATION: Inquiries regarding this notice or relating to the implementation of the tariff rate quotas described in this notice should be directed to Ms. Caroyl Miller, Deputy Chief Textile Negotiator, Office of the United States Trade Representative, room 301, 600 17th Street NW., Washington, DC 20506, Telephone (202) 395–3026.

Description of the Modification

In the FTA, a tariff rate quota was established to allow Canadian exports to the United States of non-wool fabric and made-up products that did not meet FTA rules of origin access to FTA tariff preferences up to an annual level of 25,083,821 square meters equivalent. This tariff rate quota expired on December 31, 1992. The CFTA provides that "the Parties agree to revisit the quantitative element of this agreement two years after its entry into force together with representatives of the industries in order to work out a mutually satisfactory solution, taking into account the availability of yarns in both countries."

During negotiations on the North American Free Trade Agreement (NAFTA), the United States and Canada agreed on new rules of origin for the textile and apparel sector, which require a more rigorous standard for preferences than does the FTA. In addition, the United States and Canada agreed on new levels of access for non-conforming exports of non-wool fabric and made-up products. If approved, however, the NAFTA provisions will not take effect until at least January 1, 1994. To avoid trade disruption during the interim period, the United States and Canada provisionally agreed to extend the tariff rate quota under the FTA of 25,083,821 square meters equivalent for the period January 1, 1993 through December 31, 1993.

Section 103 of the FTA Implementation Act provides that the President may proclaim modifications to rules of origin 60 days after a report on the proposed modification is submitted to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate, and advice on the modification is obtained from the U.S. International Trade Commission (USITC) and appropriate private sector advisory committees. On January 21, 1993, a report was submitted to the above-named Committees of Congress; advice had been previously obtained from the USITC and advisory committees.

Requests for Comments

Comments supporting or opposing extension of the existing tariff rate quotas for non-wool and made-up goods from Canada specified in Rule 18 of Chapter 3 on Rules of Origin of the FTA will be accepted until February 26, 1993. Comments should be typewritten and submitted in ten copies to Ms. Caroyl Miller, Deputy Chief Textile Negotiator, room 301, Office of the United States Trade Representative, 600 17th Street NW., Washington, DC 20506. All submissions must specify: (1) The name, address, and telephone number of the person, firm, or organization making the comments and (2) an indication as to whether the writer represents a:

—Producer in the United States
—Importer in the United States
—Exporter in the United States
—Consumer in the United States
—Other, in the United States (please specify)
—Producer in Canada
—Importer in Canada
—Exporter in Canada
—Consumer in Canada
—Other, in Canada (please specify)

Charles E. Roh, Jr.,

Assistant U.S. Trade Representative for North American Affairs.

[FR Doc. 93–2008 Filed 1–26–93; 8:45 am]

BILLING CODE 3190–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–31748; File No. SR–MSTC–92–10]

Self-Regulatory Organizations; Midwest Securities Trust Company; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Modification of Fee Schedule To Provide Discounts to Primary Users

January 19, 1993.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] notice is hereby given that on December 4, 1992, the Midwest Securities Trust Company ("MSTC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change (File No. SR–MSTC–92–10) as described in Items I, II, and III below, which Items have been prepared primarily 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 revises MSTC's fee schedule to provide discounts (see Exhibit A) to participants who are primary users[2] of available MSTC services. Eligibility for the discount would be based on a commitment in writing by the participant to continue to use MSTC as the primary provider of safekeeping services for a minimum period of two to three years.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of the proposed rule change is to provide discounts, in the form of a two tiered fee revision, to participants who use MSTC as their primary securities depository. Under the proposal, participants who make a commitment in writing to continue to use MSTC as their primary custodian for a period of two to three years would receive discounted service charges.

The first tier of the proposed discount would be available only to those participants who have been participants for the previous year, as the discount would be calculated based on the participant's actual annualized revenue level paid to MSTC for the previous twelve month period. A participant who produces a minimum average revenue of $20,000 per month for MSTC would receive a discount of 50% off of each dollar spent in excess of their actual average annualized revenue level. Each year, the participant's actual average would be revised and would remain constant for the next twelve month period.

The second tier of the proposed discount would be based on the total amount of monthly revenues MSTC receives from a participant. In order to qualify for this discount, MSTC must receive monthly revenues at a level equal to or in excess of $20,000 from a participant. At this level, a participant with a two year commitment to use MSTC as its primary custodian would receive a discount of 6% off the total amount of fees the participant must pay to MSTC that month. A participant who makes a three year commitment at this level would receive a discount of 8% off the total amount of fees the participant must pay to MSTC that month. Similarly, participants who produce monthly revenues for MSTC in excess of $50,000 and sign a two year commitment would receive a 12% discount off the total amount of fees the participant must pay to MSTC that month. A participant who makes a three year commitment at this level would receive a discount of 16% off the total amount of fees the participant must pay to MSTC that month.

MSTC believes that the proposed rule change is consistent with the requirements of Sections 17A(b)(3) (A) and (F) of the Act, and the rules and regulations thereunder, in that it promotes the prompt and accurate clearance and settlement of securities transactions.

(B) Self-Regulatory Organization's Statement on Burden on Competition

MSTC does not believe that the proposed rule change will impose any burden on competition 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

MSTC 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

The foregoing rule change has become effective pursuant to section 19(b)(3)(A) of the Act and subparagraph (e) of Rule 19b–4 thereunder, because the proposed rule change establishes or changes a due, fee, or other charge imposed by the self-regulatory organization. At any time within 60 days of the filing of such rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference 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 MSTC. All submissions should refer to the File No. SR–MSTC–92–10 and should be submitted by February 17, 1993.

[1] 15 U.S.C. 78s(b)(1).

[2] A "primary user" means either (1) a participant who uses MSTC solely as its depository and clearing agent or (2) a participant who is a member of more than one securities depository but who safekeeps the majority of its eligible inventory with MSTC. To document the latter, MSTC may request that participants verify the amount of business conducted at another depository.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[3]

Margaret H. McFarland,

Deputy Secretary.

EXHIBIT A.—DISCOUNT FEE SCHEDULE[1]

[First Tier[2]]

Minimum average revenue (per month)	Percent discount
$20,000 and above	50% off each dollar spent in excess of actual average annualized revenue level.

[1] A commitment in writing to continue to use MSTC as their primary custodian for two to three years is required from a participant in order to become eligible to receive discounted service charges under the proposal.

[2] The first tier discount is based on the participant's actual annualized revenue level for the previous twelve month period.

SECOND TIER[3]

Total MSTC revenues (per month)	Percent discount	Length of commitment
$20,000–$50,000	6	2 years.
	8	3 years.
$50,001 and above.	12	2 years.
	16	3 years.

[3] The second tier discount is based on the total amount of monthly revenues MSTC receives from a participant.

[FR Doc. 93–1921 Filed 1–26–93; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–31747; File No. SR–NSCC–92–15]

Self-Regulatory Organizations; National Securities Clearing Corporation; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to a Change in the Fees for Networking and Fund/Serv

January 19, 1993.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] notice is hereby give that on December 24, 1992, the National Securities Clearing Corporation ("NSCC") 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 changes the fees for Networking and Fund/Serv.

[3] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1) (1988).

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, NSCC 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. NSCC 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 modify NSCC's fees for the Fund/Serv service and the Networking service. The revised Networking fee became effective January 1, 1993 for billing in February, 1993. The revised Fund/Serv fee will become effective concurrent with the approval of SR–NSCC–92–14[2] for those participants that utilize the new Fund/Serv service.[3]

The proposed rule change is consistent with section 17A(b)(3)(D) of the Act[4] in that it provides for the equitable allocation of reasonable fees and other charges among participants.

B. Self-Regulatory Organization's Statement on Burden on Competition

NSCC does not believe that the proposed rule change will have an impact or impose a burden on competition.

C. Self-Regulatory Organization's Statement of Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments have been solicited or received. NSCC will notify the Commission of any written comments received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change establishes or changes a due, fee, or other charge imposed by NSCC and therefore has become effective on filing pursuant to section 19(b)(3)(A) of the Act and subparagraph (e) of Rule 19b–4 thereunder. At any time within 60 days of the filing of such rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

[2] SR–NSCC–92–14 will permit NSCC to modify its Mutual Fund Services to provide system flexibility in order to process any type of mutual fund product.

[3] During the transition period, those members utilizing old Fund/Serv formats will continue to be charged the old rates.

[4] 15 U.S.C. 78q–1(b)(3)(D) (1988).

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 NSCC. All submissions should refer to file number SR–NSCC–92–15 and should be submitted by February 17, 1993.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93–1922 Filed 1–26–93; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–31746; File No. SR–PTC–92–15]

Self-Regulatory Organizations; Participants Trust Company; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change Relating to the Payment of Dividends to PTC Shareholders

January 15, 1993.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] notice is hereby given that on December 24, 1992, Participants Trust Company ("PTC") filed with the Securities and Exchange Commission ("Commission") the proposed rule

[1] 15 U.S.C. 78s(b)(1).

change (File No. SR–PTC–92–15) as described in Items I and II below, which Items have been prepared primarily by the self-regulatory organization. The Commission is publishing this notice and order to solicit comments on the proposed rule change and to grant approval of the proposed rule change on an accelerated basis.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

PTC is changing its practices to reflect relief from applicable regulatory constraints on the payment of dividends to its shareholders and to approve the practice of paying such dividends as authorized by its Board of Directors ("Board").

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

The purpose of the proposed rule filing is to change PTC's practices to reflect relief from applicable regulatory constraints on the payment of dividends to its shareholders and to approve the practice of paying such dividends when and as authorized by its Board. In addition, PTC's Board has declared a dividend of $.52 per share of capital stock, with a par value of $5.00 each, payable on January 18, 1993 to stockholders of record as of the close of business on December 31, 1992.

By letter dated March 27, 1989 from the Board of Governors of the Federal Reserve System ("Board of Governors"), PTC was prohibited from paying dividends to its stockholders.[2] By letter dated June 9, 1992, the Board of Governors relieved PTC from the restriction on the payment of dividends on the understanding that dividends, if declared, must be declared periodically by PTC's Board and paid at a rate not to exceed the 90-day United States Treasury bill rate in effect at the time the dividend is declared.[3] Thus, PTC's Board has adopted a policy that would allow it to pay dividends to shareholders from the net profits of PTC.[4]

Although the Board's policy on the payment of dividends will allow PTC to pay a dividend from excess income from invested principal and interest ("P&I"), PTC's Board has determined not to use any excess income from invested P&I to pay this dividend.[5] Prior to using any excess income from invested P&I to pay a dividend, PTC's Board will be advised of any amount related to the investment of P&I which has not been rebated that is part of the net profits used to declare a dividend and must affirmatively vote to use such excess income from P&I for a dividend.

Since the proposed rule change provides for the prompt and accurate clearance and settlement of securities transactions, PTC believes it is consistent with section 17A of the Act[6] and the rules and regulations thereunder applicable to PTC.

B. Self-Regulatory Organization's Statement on Burden on Competition

PTC does not perceive that the proposed rule filing 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

PTC has not solicited, and does not intend to solicit, any written comments on this proposed rule change. PTC has not received any unsolicited written comments from participants or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

PTC has requested that the Commission approve the proposed rule change on an accelerated basis. PTC expects to issue a 1992 dividend on January 18, 1993. The Commission believes that it is desirable for PTC to go forward with its dividend on January 18, 1993. Thus, the Commission finds that "good cause" exists under section 19(b)(2) of the Act for approving PTC's proposed rule change prior to the thirtieth day after publication of notice.[7]

Section 17A(b)(3)(C) of the Act requires that the rules of a clearing agency assure that fair representation of its shareholders and participants in the selection of its directors and administration of its affairs.[8] In addition, section 17A(b)(3)(D) of the Act requires that the rules of a clearing agency provide for the equitable allocation of reasonable dues, fees, and other charges among its participants.[9] As discussed below, the Commission believes that PTC's proposal is consistent with the Act, in particular with Section 17A of the Act.

PTC was formed to operate the then MBS Clearing Corporation's depository subsidiary, and doing so required major capital investment in infrastructure. This in turn created a real need for capital investment in PTC, which need was met by PTC's shareholders. The Commission recognizes that PTC could reduce or rebate fees instead of issuing a dividend and that PTC's rule change represents the first time that a clearing

[2] See letter from William W. Wiles, Secretary of the Board, Board of Governors of the Federal Reserve System, to Thomas A. Williams, Milbank, Tweed, Hadley & McCloy, dated March 27, 1989 (approving PTC's application for stock in the Federal Reserve Bank of New York).

[3] See letter from Jennifer J. Johnson, Associate Secretary to the Board, Board of Governors of the Federal Reserve System, to Leopold S. Rassnick, Vice President and General Counsel, PTC, dated June 9,1992. Subsequently, the State of New York Banking Department removed its restriction on the payment of dividends. See letter from Carmine M. Tenga, Deputy Superintendent of Banks, State of New York Banking Department, to Leopold S. Rassnick, Vice President and General Counsel, PTC, dated December 21, 1992.

[4] Under New York Banking Law, PTC may pay a dividend as frequently as once per quarter as PTC deems judicious to be paid from net profits. Net profits are defined as the remainder of all current earnings after deducting current operating expenses, actual losses, and all federal and state taxes. See N.Y. Banking Law § 112 (McKinney 1990).

[5] Securities Exchange Act Release No. 31593 (December 18, 1992), 57 FR 60262. Under PTC's current rebate policy, PTC's Board may decide from time to time to distribute net profits calculated on the basis of (i) service fees, pro rata, based on the total amount of service fees paid by each participant and (ii) excess income related to the collection and investment of P&I funds, pro rata, based on the amount of P&I disbursements to each participant. PTC's Board will base its decision to rebate on a number of considerations, including projected earnings of PTC, the projected financial needs of PTC, and the desirability of paying dividends on PTC's outstanding stock.

[6] 15 U.S.C. 78q–1.

[7] Pursuant to section 19(b)(4)(A) of the Act, 15 U.S.C. 78s(b)(4)(A), the Commission contacted the Board of Governors of the Federal Reserve System ("Federal Reserve"), PTC's appropriate regulatory agency, regarding the proposed rule change. Staff of the Federal Reserve believes that the proposed rule change is consistent with PTC's obligation to safeguard securities and funds in its custody or control or for which it is responsible, and did not object to the proposed accelerated approval. Telephone conversation between Don R. Vinnedge, Manager, Trust Activities Program, Federal Reserve, and Francois-Ihor Mazur, Staff Attorney, Division of Market Regulation, Commission (December 30, 1992).

[8] 15 U.S.C. 78q–1(b)(3)(C).

[9] 15 U.S.C. 78q–1(b)(3)(D).

agency has declared a dividend.[10] Given PTC's early and acute need for capital investment, the Commission recognizes the need to give shareholders some limited return on the capital they have invested in PTC. Moreover, PTC participants have the opportunity to become shareholders under PTC's annual reallocation of stock, which is open to all PTC participants.[11] The Commission therefore believes that the issuance of the dividend by PTC on January 18, 1993 is consistent with section 17A(b)(3)(D) of the Act[12] in that it provides for the equitable allocation of reasonable fees and other charges among participants. Nevertheless, because this is the first time a registered clearing agency is declaring a dividend, the Commission is concerned about the equitable distribution of net profits and thus believes it is appropriate for PTC to file a proposed rule change under section 19(b)(3)(A) of the Act[13] each time it declares a dividend.[14]

Under PTC's current system, it is possible to be a PTC participant without being a PTC shareholder. In the past, the distribution of excess income from fees and invested P&I has been made on the basis of a participant's level of participation. A participant's status as a shareholder did not enter into this determination. Consequently, there has been little incentive for participants to acquire shares in PTC and many new and small participants do not have a stake in PTC.

The proposed rule change is not intended to replace PTC's policy regarding distributions to participants, but is rather a way to give shareholders some limited return on the capital they invest in PTC. In addition, PTC can only issue a dividend from net profits and only at a rate not to exceed the 90-day United States Treasury bill rate in effect at the time the dividend is declared. The Commission believes that ownership is an important aspect of participation in PTC. The issuance of dividends will allow PTC to increase the incentive for participants to invest in PTC shares, and thereby advance the requirement of fair representation of shareholders and participants under Section 17A of the Act.

[10] When establishing fees for its users, a clearing agency tends to be conservative in estimating the level of activity for a coming year. Consequently, revenues typically exceed expenses due to higher than projected participant activity. For example, in 1991, The Depository Trust Company ("DTC") reported income of approximately $345 million and expenses of approximately $266 million. Approximately $79 million in net income was therefore distributed to participants. See DTC 1991 Annual Report. Similarly, in 1991, The Options Clearing Corporation ("OCC") had revenue exceeding expenses by about $4.5 million which was distributed to clearing members. See OCC 1991 annual report.

[11] See Securities Exchange Act Release No. 26671 (March 31, 1989), 54 FR 13266 (discussing PTC's reallocation process).

[12] 15 U.S.C. 78q–1(b)(3)(D).

[13] 15 U.S.C. 78s(b)(3)(A).

[14] See letter from Leopold S. Rassnick, Vice President and General Counsel, PTC, to Ester Saverson, Branch Chief, Division of Market Regulation, Commission, dated January 15, 1993, in which PTC agreed to file a proposed rule change with the Commission under section 19(b)(3)(A) of the Act each time it declares a dividend.

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 PTC. All submissions should refer to file number SR–PTC–92–15 and should be submitted by February 17, 1993.

V. Conclusion

On the basis of the foregoing, the Commission finds that PTC's proposed rule change is consistent with the Act and in particular with section 17A of the Act.

It is therefore ordered, under section 19(b)(2) of the Act, that the proposed rule change (File No. SR–PTC–92–15) be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93–1923 Filed 1–26–93; 8:45 am]

BILLING CODE 8010–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE–93–4]

Petitions for Exemption; Summary of Petitions Received; Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemption received and of disposition of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR chapter I), dispositions of certain petitions previously received, and corrections. 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 of 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 February 16, 1993.

ADDRESSES: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rule 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:

Mrs. Jeanne Trapani, Office of Rulemaking (ARM–1), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267–7624.

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of part 11 of the Federal Aviation Regulations (14 CFR part 11).

Issued in Washington, DC, on January 15, 1993.

Donald P. Byrne,

Assistant Chief Counsel for Regulations.

Petitions for Exemption

Docket No.: 25716
Petitioner: Flamenco Airways, Inc.
Sections of the FAR Affected: 14 CFR 43.3(g)
Description of Relief Sought: To renew Exemption No. 5106, which expired October 31, 1991, and which allowed pilots employed by Flamenco Airways, Inc., to remove and install passenger seats and approved stretchers in Britten Norman aircraft model BN2A.

Docket No.: 26503
Petitioner: Airborne Express
Sections of the FAR Affected: 14 CFR 121.623 (a) and (d), 121.643, and 121.645(e)
Description of Relief Sought: To extend the termination date of Exemption No. 5307, which expires May 31, 1993, and which allows ABX Air, Inc., d.b.a. Airborne Express, to conduct operations in accordance with the requirements applicable to domestic air carriers contained in part 121 and listed in Condition 1 of the exemption.

Docket No.: 26732
Petitioner: Air Transport Association of America
Sections of the FAR Affected: 14 CFR 121.652 (a) and (c)
Description of Relief Sought: To revise Exemption No. 5549, which expires November 30, 1994, to combine crosswind and breaking restrictions, to make other technical corrections, and to extend the termination date accordingly.

Dispositions of Petitions

Docket No.: 25617
Petitioner: Japan Airlines, Ltd.
Sections of the FAR Affected: 14 CFR 91.203(c), 91.417(c) and (d), 45.11, and part 43 appendix B, paragraphs (a) and (d)
Description of Relief Sought/ Disposition: To extend the termination date of Exemption No. 5006, which expires December 31, 1992, and which allows Japan Airlines, Ltd. (JAL) to operate its U.S.-registered aircraft that have been modified by installation of fuel tanks in the passenger or baggage compartment without keeping an FAA Form 337 on board the aircraft. The exemption also allows JAL to continue to operate its U.S.-registered aircraft without having an identification plate secured to the fuselage exterior and, with respect to JAL's U.S.-registered aircraft manufactured before March 7, 1988, this exemption allows operation without displaying the aircraft model designation and manufacturer's serial number on the aircraft exterior.
Grant, December 31, 1992, Exemption No. 5006B

Docket No.: 25653
Petitioner: Singapore Airlines, Ltd.
Sections of the FAR Affected: 14 CFR 91.203(c), 91.417(c) and (d), 45.11, and part 43 appendix B, paragraphs (a) and (d)
Description of Relief Sought/ Disposition: To extend the termination date of Exemption No. 5008, which expires December 31, 1992, and which allows Singapore Airlines, Ltd. (SIA) to operate its U.S.-registered aircraft that have been modified by installation of fuel tanks in the passenger or baggage compartment without keeping an FAA Form 337 on board the aircraft. The exemption also allows SIA to continue to operate its U.S.-registered aircraft without having an identification plate secured to the fuselage exterior and, with respect to SIA's U.S.-registered aircraft manufactured before March 7, 1988, this exemption allows operation without displaying the aircraft model designation and manufacturer's serial number on the aircraft exterior.
Grant, December 31, 1992, Exemption No. 5008B

Docket No.: 26845
Petitioner: University of North Dakota
Sections of the FAR Affected: 14 CFR 141.65
Description of Relief Sought/ Disposition: To allow the University of North Dakota to recommend graduates of its flight instructor certification courses for flight instructor certificates (with the associated ratings) without having to take the Federal Aviation Administration flight test.
Grant, November 5, 1992, Exemption No. 5546

Docket No: 26991
Petitioner: Mr. Rube Goldberg
Sections of the FAR Affected: 14 CFR 121.574(a)
Description of Relief Sought/ Disposition: To allow Mr. Rube Goldberg to carry and use his own source of oxygen aboard commercial airplanes in lieu of that supplied by the air carrier.
Denial, January 5, 1993, Exemption No. 5583

Docket No: 27109
Petitioner: Scandinavian Airlines System and ABX, Inc.
Sections of the FAR Affected: 14 CFR 91.805
Description of Relief South/Disposition: To allow the operation of four noncomplying Stage 1 DC–9–41 aircraft from Oslo, Norway, to Dayton, Ohio, for customs clearance, and then to Wilmington, Ohio, to obtain modification to bring the subject aircraft into compliance with Stage 2 noise levels under part 36 of the FAR.
Grant, January 11, 1993, Exemption No. 5584

Docket No: 27908
Petitioner: Hartzell Propeller, Inc.
Sections of the FAR Affected: 14 CFR 21.231(a)
Description of Relief Sought/ Disposition: To extend the termination date of Exemption No. 5266, which expires December 31, 1992, and which allows Hartzell Propeller, Inc., to apply for a delegation option authorization for the type, production, and airworthiness certification of propellers manufactured for use on turbopropeller and reciprocating engines of not more than 1,500 brake horsepower.
Grant, December 18, 1992, Exemption No. 5266A

[FR Doc. 93–1951 Filed 1–26–93; 8:45 am]
BILLING CODE 4910–13–M

Executive Committee of the Aviation Rulemaking Advisory Committee; Meeting

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of meeting.

SUMMARY: The FAA is issuing this notice to advise the public of a meeting of the Executive Committee of the Federal Aviation Administration Aviation Rulemaking Advisory Committee.

DATES: The meeting will be held on February 10, 1993, at 9 a.m. Arrange for oral presentations by February 3, 1993.

ADDRESSES: The meeting will be held at the Air Line Pilots Association, 1625 Massachusetts Avenue NW., room 804–805, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Miss Jean Casciano, 800 Independence Avenue SW., Washington, DC 20591, telephone (202) 267–9683; fax number (202) 267–5075.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App. II), notice is hereby given of a meeting of the Executive Committee to be held on February 10, 1993, at the Air Line Pilots Association,

1625 Massachusetts Avenue NW., room 804–805, Washington, DC. The agenda will include:

- A discussion of revisions to the committee charter.
- A discussion of revisions to the committee operating procedures.
- Status reports from the chairs of the subcommittees.

Attendance is open to the interested public but will be limited to the space available. The public must make arrangements by February 3, 1993, to present oral statements at the meeting. The public may present written statements to the executive committee at any time by providing 20 copies to the Executive Director, or by bringing the copies to him at the meeting. Arrangements may be made by contacting the person listed under the heading **FOR FURTHER INFORMATION CONTACT.**

Issued in Washington, DC, on January 19, 1993.

Chris A. Christie,

Executive Director, Aviation Rulemaking Advisory Committee.

[FR Doc. 93–1953 Filed 1–26–93; 8:45 am]

BILLING CODE 4910–13–M

Notice of Intent To Rule on Application To Impose and Use the Revenue From a Passenger Facility Charge (PFC) at Medford-Jackson County Airport, Medford, Oregon

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Medford-Jackson County Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

DATES: Comments must be received on or before February 26, 1993.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: J. Wade Bryant, Manager, Seattle Airports District Office, SEA–ADO, Federal Aviation Administration, 1601 Lind Avenue SW., suite 250, Renton, WA 98055–4056.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Gunther E. Katzmar, Airport Director, Jackson County, Oregon at the following address: 3650 Biddle Road, Medford, Oregon 97504.

Air carriers and foreign air carriers may submit copies of written comments previously provided to Jackson County, Oregon under § 158.23 of part 158.

FOR FURTHER INFORMATION CONTACT: Ms. Suzanne Lee-Pang, Civil Engineer, (206) 227–2654, Seattle Airports District Office, SEA–ADO, Federal Aviation Administration, 1601 Lind Avenue SW., suite 250, Renton, Washington 98055–4056. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Medford-Jackson County Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

On January 14, 1993, the FAA determined that the application to impose and use the revenue from a PFC submitted by Jackson County, Oregon was substantially complete within the requirements of section 158.25 of Part 158. The FAA will approve or disapprove the application, in whole or in part, no later than April 20, 1993.

The following is a brief overview of the application. Level of the proposed PFC: $3.00 Proposed charge effective date: June 1, 1993 Proposed charge expiration date: August 31, 1995 Total estimated PFC revenue: $1,079,405.00

Brief description of proposed projects: The impose only projects are environmental assessment for runway extension (runway 14), pave perimeter road, pavement management plan, land acquisition, and relocate runway 9/27 lights. The impose and use projects include taxiway overlay, master plan update, signage installation, access control system installation, safety improvements (cover drainage ditches, establish obstacle free area), reconstruct taxilane, replace porous friction course, and install centerline lights on runway 14/32, land acquisition, and apron construction.

Class or classes of air carriers which the public agency has requested not be required to collect PFCs: Air taxi/commercial operators who enplane revenue passengers in limited, irregular, special service air taxi/commercial operations such as air ambulance services, student instruction, non-stop sightseeing flights that begin and end at the airport and are concluded within a 25 mile radius of the airport, and other similar limited, irregular, special service operations by such air taxi/commercial operators.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT** and at the FAA regional Airports office located at: Federal Aviation Administration, Northwest Mountain Region, Airports Division, ANM–600, 1601 Lind Avenue SW., Suite 540 Renton, WA 98055–4056.

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Medford-Jackson County Airport.

Issued in Renton, Washington on January 14, 1993.

Edward G. Tatum,

Manager, Airports Division Northwest Mountain Region.

[FR Doc. 93–1952 Filed 1–26–93; 8:45 am]

BILLING CODE 4910–13–M

Federal Highway Administration

Environmental Impact Statement: Flathead County, MT

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of Intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an Environmental Impact Statement (EIS) will be prepared for a proposed highway project in Flathead County, Montana.

FOR FURTHER INFORMATION CONTACT: Dale Paulson, Environmental Coordinator, Federal Highway Administration, 301 South Park, Drawer 10056, Helena, MT 59626–0056; Telephone: (406) 449–5310.

SUPPLEMENTARY INFORMATION: The FHWA is preparing an Environmental Impact Statement for a proposal to improve the U.S. 93 Highway transportation corridor from Somers, Montana through Whitefish, Montana. This proposed project was originally being developed by the Montana Department of Transportation as two separate projects; one from Somers to Kalispell, and one from Kalispell to Whitefish. Environmental assessments were developed for these projects, however it has been determined that a single EIS should be prepared from Kalispell through Whitefish.

Improvements to the corridor are considered necessary to provide for the existing and projected traffic demand. Comments are being solicited from appropriate Federal, State, and local agencies and from private organizations

and citizens who have previously expressed or are known to have interest in this proposal. Public meetings will be held in the project area and in addition a public hearing will be held. Public notice will be given of the time and place of the meetings and hearings. The draft EIS will be available for public and agency review and comment prior to the public hearing.

To ensure that the full range of all issues related to this proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to the FHWA, at the addresses listed previously.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this proposed action)

Issued on: January 13, 1993.

Duane C. Lewis,

Assistant Division Administrator, Montana Division, Helena.

[FR Doc. 93–1915 Filed 1–26–93; 8:45 am]

BILLING CODE 4910–22–M

DEPARTMENT OF THE TREASURY

[Order Number: 105–10]

Temporary Arrangements for Functions Relating to Enforcement

January 15, 1993.

Pursuant to the authority vested in the Secretary of the Treasury, including the authority vested by 31 U.S.C. 321(b), and notwithstanding Treasury Order (TO) 101–05 (dated July 2, 1992), it is ordered that the following arrangements shall be temporarily in effect with respect to enforcement functions:

1. All duties and power formerly carried out by the Assistant Secretary (Enforcement) shall be carried out by the Deputy Assistant Secretary (Regulatory, Tariff and Trade Enforcement);

2. Those officials subject to the supervision of the Assistant Secretary (Enforcement) pursuant to TO 101–05 (dated July 2, 1992) shall report to the Deputy Assistant Secretary (Regulatory, Tariff and Trade Enforcement), and

3. The Deputy Assistant Secretary (Regulatory, Tariff and Trade Enforcement) shall report to the Deputy Secretary.

4. *Redelegation.* The duties and powers assigned by this Order may be redelegated. Any such redelegation shall be in writing.

5. *Effective Date:* The foregoing arrangements shall be effective at the close of business, January 19, 1993.

6. *Cancellation.* This temporary Order shall terminate without any further action when a new Assistant Secretary (Enforcement) executes the oath of office.

John E. Robson,

Acting Secretary of the Treasury.

[FR Doc. 93–1977 Filed 1–26–93; 8:45 am]

BILLING CODE 4810–25–M

[Directive Number: 27–03]

Organization and Functions of the Office of the Assistant Secretary (Enforcement)

January 19, 1993.

1. *Purpose.* This directive describes the organization and functions of the Office of the Assistant Secretary (Enforcement).

2. *The Assistant Secretary (Enforcement)* reports to the Secretary through the Deputy Secretary and is responsible for the following functions.

a. Coordinates all Treasury law enforcement matters, including the formulation of policies for all Treasury enforcement activities.

b. Ensures cooperation and proper levels of Treasury participation in law enforcement matters with other Federal departments and agencies.

c. Provides Departmental oversight and supervision of the U.S. Customs Service (USCS), U.S. Secret Service (USSS), Bureau of Alcohol, Tobacco and Firearms (BATF), the Federal Law Enforcement Training Center (FLETC), and the Financial Crimes Enforcement Network (FinCEN).

d. Negotiates international agreements on behalf of the Secretary to engage in joint law enforcement operations and for the exchange of financial information and records useful to law enforcement.

3. *Organization Structure.* The Assistant Secretary supervises the Deputy Assistant Secretary (Law Enforcement), the Deputy Assistant Secretary (Regulatory, Tariff and Trade Enforcement) and the Director of the Financial Crimes Enforcement Network.

4. *The Deputy Assistant Secretary (Law Enforcement)* acts, as assigned, for the Assistant Secretary in the Assistant Secretary's absence and is responsible for the following functions.

a. Represents the Assistant Secretary (Enforcement) on major law enforcement matters that require top level attention in the Department of the Treasury, including currency violations, smuggling, forgery, counterfeiting, international and domestic money laundering, and other violations of laws over which the Department of the Treasury bureaus have jurisdiction.

b. Provides leadership for Treasury's participation in national law enforcement programs and efforts, relating to the suppression of narcotics and dangerous drug smuggling and other interdepartmental law enforcement programs that may arise.

c. Coordinates and develops Treasury's law enforcement policy.

d. Supervises the Office of Financial Enforcement, the Office of Law Enforcement and the Executive Office for Asset Forfeiture, and provides staff assistance and advice on day-to-day matters and policy issues relating to FinCEN.

(1) *The Office of Financial Enforcement* is responsible for the following functions.

(a) Assists in implementing the Bank Secrecy Act (Public Law 91–508), promulgating, interpreting, administering, and enforcing related Treasury regulations, 31 CFR part 103, and internal guidelines, and combatting domestic and international financial criminal activity, including money laundering.

(b) Coordinates and monitors analysis and dissemination of Bank Secrecy Act data and compliance activities and other functions of agencies delegated responsibilities by the Secretary under the Bank Secrecy Act, including the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, the Office of Thrift Supervision, the National Credit Union Administration, the Securities and Exchange Commission, the Federal Deposit Insurance Corporation, the U.S. Postal Service, USCS, FinCEN, and the Internal Revenue Service (IRS).

(c) Evaluates and recommends to the Deputy Assistant Secretary (Law Enforcement) requests for dissemination of Bank Secrecy Act report information, and recommends dissemination guidelines and policies for USCS, IRS and FinCEN.

(d) Serves as principal staff for the Assistant Secretary (Enforcement) on matters relating to those State and Federal agencies that have compliance responsibilities for the Bank Secrecy Act, other Federal, State, local and foreign governmental agencies, the financial community, and the public on related matters, and communicates such policy to the Congress through the Office of the Assistant Secretary (Legislative Affairs).

(e) Coordinates initiatives regarding domestic and international cooperation on money laundering and currency

reporting and serves as principal staff for the Assistant Secretary (Enforcement) on matters relating to other Federal, State, and local and foreign governmental agencies on these issues.

(f) Reviews or initiates recommendations relating to assessment or mitigation of civil penalties under the Bank Secrecy Act or seizures in excess of $500,000 based on violations of the Bank Secrecy Act.

(g) Advises and makes recommendations on matters relating to domestic and international money laundering, and on issues affecting the enforcement of the Bank Secrecy Act. Evaluates FinCEN recommendations on these matters as well as possible uses of special currency reporting requirements under 31 U.S.C. 5326.

(2) *The Office of Law Enforcement* is responsible for the following functions.

(a) Serves as the principal policy office for the Assistant Secretary (Enforcement) on all matters concerning general law enforcement policy for the Treasury enforcement bureaus.

(b) Coordinates and monitors a wide variety of special emphasis and high priority law enforcement issues that relate to the activities of the BATF, USCS, FLETC, USSS, and IRS.

(c) Ensures Department of the Treasury coordination with the Office of National Drug Control Policy, Department of Justice, Department of Defense, Department of State, Department of Transportation, and the Federal Intelligence Community on matters pertaining to drug law enforcement policy, and communicates such policy to the Congress through the Office of the Assistant Secretary (Legislative Affairs).

(d) Serves as the principal liaison for the Office of the Assistant Secretary (Enforcement) with State, local, and other federal law enforcement agencies concerning law enforcement policy matters.

(e) Coordinates, develops and monitors the implementation of law enforcement policy directives pertaining to the enforcement activities of Treasury law enforcement bureaus.

(3) *The Executive Office for Asset Forfeiture* is responsible for the following functions.

(a) Establishing a Treasury Forfeiture Fund Program ("Program"), by: (1) Developing and implementing an overall plan with respect to seizure and forfeiture policy as established by the Assistant Secretary (Enforcement) and the Deputy Assistant Secretary (Law Enforcement) for the Treasury Department and its law enforcement organizations; (2) issuing guidelines and procedures to be followed by the Treasury Department and its law enforcement organizations in the implementation of the Program's seizure and forfeiture policy; (3) entering into agreements and undertaking program initiatives to implement seizure and forfeiture policy; and (4) coordinating seizure and forfeiture programs with the Department of Justice.

(b) Making all determinations regarding distributions from the Fund, including: (1) the amounts to be distributed and the purposes for which distributed amounts may be used by any Treasury law enforcement organization, the Coast Guard, the Departmental Offices, the Department of Justice, State and local organizations, and any other entity; and (2) authorizing obligations and expenditures within the budgetary resources available to the Fund.

(c) Implementing all policy decisions established by the Assistant Secretary (Enforcement) and Deputy Assistant Secretary (Law Enforcement) in connection with the detention, inventory, security, maintenance, advertisement, disposal or other management-related tasks relating to assets seized or forfeited, including: (1) developing and implementing automated systems to track assets from seizure to disposition; (2) operating and managing programs designed to handle seized and forfeited assets for disposition, including, but not limited to, the transportation, custody, and sale or disposition of such assets; and (3) entering into and administering any contract entered into by the Executive Office for Asset Forfeiture or its agent for the management of seized and forfeited assets.

(d) Planning and developing budgets, including the identification and projection of those expenses to be paid from the Fund.

(e) Maintaining a system of internal controls for the Fund.

(f) Formulating, developing and implementing programs for the internal controls concerning the assets, proceeds and accounts of the Program and the Fund, including, without limitation, determining and reviewing the obligations incurred and the expenditures made from the Fund, evaluating the performance of the Program and the Fund, overseeing inventories and audits, accounting for assets of the Fund and developing systems for the management of such assets, preparing management reports, tracking reconciliation of sales and receipts, and monitoring financial management reports.

(g) Monitoring funds distributed to the Treasury law enforcement agencies and others to ensure that funds are being used for their intended purposes.

(h) Providing information requested by the Assistant Secretary (Management)/Chief Financial Officer (CFO) with respect to: (1) estimates for appropriations or other budget authority, requests for apportionments, and any other submissions on budgetary matters to the Office of Management and Budget (OMB) or Congress; and (2) preparing and submitting to the Assistant Secretary (Management)/CFO for concurrence, an annual financial management plan for the Fund.

(i) Submitting to the Assistant Secretary (Management)/CFO for concurrence the procedures developed for operation of the Fund that constitute controls of funds or directly affect financial management; provided, however, that the decision with respect to the amounts and the purposes for which such amounts are to be disbursed from the Fund remain within the sole discretion of the Executive Office for Asset Forfeiture.

5. *The Deputy Assistant Secretary (Regulatory, Tariff and Trade Enforcement)* acts, as assigned, for the Assistant Secretary in the Assistant Secretary's absence and is responsible for the following functions.

a. Provides policy guidance and review in establishing regulatory policies with respect to the USCS and BATF.

b. Serves as principal support to the Assistant Secretary (Enforcement) in all tariff and trade enforcement matters, including proposed legislation, regulatory changes or other policy proposals on tariff and trade matters.

c. Advises the Assistant Secretary (Enforcement) on matters involving the Departmental level oversight and supervision of the USCS, USSS, BATF, and FLETC.

d. Supervises the following organizations: Office of Trade and Tariff Affairs, Office of Foreign Assets Control and Office of Operations.

(1) *The Office of Trade and Tariff Affairs* is responsible for the following functions.

(a) Reviews and recommends actions on non-criminal cases and regulatory proposals from the USCS and BATF.

(b) Develops customs and tariff policy in areas including but not limited to Customs classification and valuation, quota programs, and imposition of penalties.

(c) Advises and assists in developing regulatory policy with respect to alcoholic beverages and the industries that produce those products.

(2) *The Office of Foreign Assets Control (FAC)* is responsible for

implementing and administering the Department's responsibilities under United States economic sanctions programs with respect to foreign nations. These sanctions programs arise primarily under the Trading with the Enemy Act and the International Emergency Economic Powers Act. Specifically, the office is responsible for the following functions.

(a) Prepares executive orders and other documents concerning the imposition and administration of economic sanctions for the signature of the President.

(b) Conducts negotiations with foreign governments regarding the administration and enforcement of U.S. sanctions.

(c) Issues regulations, subject to the approval of the Assistant Secretary and often in consultation with other Federal agencies, which reflect commercial and financial transactions of persons subject to U.S. jurisdiction with respect to tangible or intangible property in which foreign governments or their nationals have an interest.

(d) Monitors the holding of assets blocked under economic sanctions programs.

(e) Conducts appropriate licensing required to implement policy concerning transactions with respect to blocked assets and transactions otherwise prohibited by economic sanctions regulations.

(f) Coordinates civil and criminal enforcement matters, monitors key investigations and as necessary conducts investigations of FAC violations.

(3) *The Office of Operations* is responsible for the following functions.

(a) Serves as principal support in providing departmental oversight and supervision of the enforcement bureaus and provides advice on a broad range of operational matters.

(b) Operates a management information system which monitors key operations and activities in the enforcement bureaus, identifies problem areas, and tracks corrective actions.

(c) Provides assistance and support to the enforcement bureaus and to the program offices of the Assistant Secretary (Enforcement) to ensure achievement of the goals/objectives of the Assistant Secretary (Enforcement).

6. *The Director, Financial Crimes Enforcement Network (FinCEN)* reports directly to the Assistant Secretary (Enforcement) and operates under guidelines and policies established by the Assistant Secretary (Enforcement). Staff assistance and advice on day-to-day matters and policy issues shall be provided to FinCEN by the Deputy Assistant Secretary (Law Enforcement) and staff. Close coordination between the FinCEN staff and the Deputy Assistant Secretary (Law Enforcement) and staff is required. The Director of FinCEN is responsible for the following functions.

a. Directs a core staff composed of Departmental Offices employees and other personnel detailed to FinCEN, including experts from USCS, IRS, other Federal law enforcement bureaus, financial institution regulatory agencies, and private industry to centralize and combine expertise on both the national and international financial systems and the detection and prevention of money laundering and other financial crimes.

b. Advises and makes recommendations on matters relating to financial intelligence and other financial criminal activity to the Assistant Secretary (Enforcement).

c. Maintains a governmentwide data access service, with access, in accordance with applicable legal requirements, to:

(1) Information collected by Treasury, including report information filed under the Bank Secrecy Act and section 6050I of the Internal Revenue Code;

(2) Information regarding national and international currency flows;

(3) Other records and data maintained by other Federal, State, local, and foreign agencies, including financial and other records developed in specific cases; and

(4) Other privately and publicly available information.

d. Analyzes and disseminates the available data in accordance with applicable legal requirements, policies and guidelines and policies established by the Assistant Secretary (Enforcement) to:

(1) Identify possible criminal targets to appropriate Federal, State, local, and foreign law enforcement agencies;

(2) Support ongoing criminal financial investigations and prosecutions and related proceedings, including civil and criminal tax and forfeiture proceedings;

(3) Identify possible instances of noncompliance with the Bank Secrecy Act to Federal agencies with delegated responsibility for Bank Secrecy Act compliance;

(4) Evaluate and recommend possible uses of special currency reporting under 31 U.S.C. 5326; and

(5) Determine emerging trends and methods in money laundering and other financial crimes.

e. Establishes a financial crimes communications center to furnish law enforcement authorities with intelligence information related to ongoing investigations and undercover operations.

f. Furnishes research, analytical, and informational services to financial institutions, financial institution regulators, and Federal, State, local, and foreign law enforcement authorities in accordance with policies and guidelines established by the Assistant Secretary (Enforcement) in the interest of detection, prevention, and prosecution of money laundering and other financial crimes.

7. *Cancellation.* Treasury Directive 27–03, "Organization and Functions of the Office of the Assistant Secretary (Enforcement)," dated May 30, 1990, is superseded."

8. *Authority.* Treasury Order 102–14, "Delegation of Authority With Respect to the Treasury Forfeiture Fund Act of 1992," dated January 19, 1993.

9. *Office of Primary Interest.* Office of the Assistant Secretary (Enforcement).

Peter K. Nunez,

Assistant Secretary (Enforcement).

[FR Doc. 93–1979 Filed 1–26–93; 8:45 am]

BILLING CODE 4810–25–M

[Order Number: 102–13]

Delegation of Authority Concerning Budget Matters

January 19, 1993.

By virtue of the authority vested in the Secretary of the Treasury by 31 U.S.C. 321(b) and 1514(a), I hereby delegate my functions, powers, and duties relating to preparation of the budget of the Department and control of funds in the Department as follows.

1. *Budget Formulation.* a. Except as provided in paragraph 1.e., the Assistant Secretary (Management)/Chief Financial Officer (CFO) shall:

(1) Develop and transmit each year budget policy guidance to the bureaus; and

(2) Make all determinations regarding estimates for operating appropriations or other budget authority, requests for apportionments, and any other submissions on budgetary matters to the Office of Management and Budget (OMB). Appeals related to these determinations within the Department shall be addressed to the Deputy Secretary.

b. No budget-related submission shall be transmitted to OMB without clearance from the Assistant Secretary (Management)/CFO: provided that, when action has been taken by the Secretary or Deputy Secretary, such clearance shall not be withheld. The Deputy Secretary shall transmit the Department's annual budget request to

OMB, and the Assistant Secretary (Management)/CFO shall have the authority to sign all other transmittals.

c. Submissions to Congress regarding budgetary matters shall be processed in the same manner as described in paragraphs 1.a. and 1.b., and shall be coordinated by the Assistant Secretary (Management)/CFO with the Assistant Secretary (Legislative Affairs).

d. With respect to those bureaus which are supervised by the Fiscal Assistant Secretary, Treasurer, or Assistant Secretary (Enforcement) under Treasury Order (TO) 101–05, these officers shall provide such guidance as they determine to be necessary for formulation of the annual budgets of the bureaus which they supervise. This authority extends to the review and approval of budget submissions and resource tradeoffs among the bureaus under that officer's purview prior to the submission by the bureau to the Assistant Secretary (Management)/CFO. The Assistant Secretary (Management)/CFO shall consult with these officers concerning the budgets recommended to the Deputy Secretary.

e. With respect to the Internal Revenue Service, the Deputy Secretary shall make any final decisions on budgetary matters for submission to OMB or Congress. For the Office of Inspector General, budgetary estimates and staffing levels shall be determined in accordance with TO 114–01 or any successor order. The Assistant Secretary (Management)/CFO may provide guidance and advise on such budgetary matters determined under this paragraph 1.e., and shall be responsible for referring to the Deputy Secretary any matter on which action would be appropriately taken by the Secretary or Deputy Secretary.

2. *Allocation of Personnel Positions.* Except for the Office of the Comptroller of the Currency, the Office of Thrift Supervision, and as provided in paragraph 1.e. with respect to the Office of Inspector General, the Assistant Secretary (Management)/CFO shall make final determinations on all matters pertaining to the allocation of full-time equivalent positions in the bureaus and offices of the Department.

3. *Budget Execution/Control of Funds.* a. Heads of bureaus (except the Comptroller of the Currency and the Director, Office of Thrift Supervision) and the Inspector General are delegated the authority to:

(1) incur obligations and make expenditures within the budgetary resources available to the bureau or office consistent with applicable OMB apportionments and reapportionments and other authority to make funds available for obligation; and

(2) issue sub-allotments or allocations of funds to components of that bureau or office.

b. The Comptroller of the Currency and Director, Office of Thrift Supervision, shall continue to exercise their statutory authorities to incur obligations and make expenditures.

c. Heads of bureaus and the Inspector General shall maintain a system of administrative control of funds for the bureau or office. Each such system shall be reviewed and approved as outlined in Treasury Directive 32–02 or any successor directive.

d. For purposes of paragraphs 3.a. and 3.c., the Assistant Secretary (Management)/CFO shall be considered the bureau head for the Departmental Offices. With regard to the Treasury Asset Forfeiture Fund maintained pursuant to 31 U.S.C. 9703, the Assistant Secretary (Enforcement) shall be the sub-allottee.

4. *Policies, Procedures and Standards.* The Assistant Secretary (Management) has been designated to serve as the Department's Chief Financial Officer pursuant to the Chief Financial Officers Act of 1990, Public Law 101–576. The Assistant Secretary (Management)/Chief Financial Officer is delegated such additional authority as may be necessary to prescribe policies, procedures, and standards for budgetary matters and funds control. Such policies, procedures, and standards shall assure administrative control of funds and allow flexibility sufficient to conduct operations.

5. *Redelegation.* The Assistant Secretary (Management)/Chief Financial Officer, heads of bureaus, and the Inspector General may redelegate any authority conferred under this Order, to the extent such redelegation is consistent with any policies, procedures, standards, and limitations established pursuant to paragraph 4.

John E. Robson,

Acting Secretary of the Treasury.

[FR Doc. 93–1980 Filed 1–26–93; 8:45 am]

BILLING CODE 4810–25–M

[Number 102–14]

Delegation of Authority With Respect To The Treasury Forfeiture Fund Act of 1992

January 19, 1993.

By virtue of the authority vested in the Secretary of the Treasury, including the authority in 31 U.S.C. 321(b), it is ordered that:

1. The purpose of this Order is to delegate the functions, powers and duties of the Secretary in connection with the operation and administration of the Department of the Treasury Forfeiture Fund (hereinafter, the "Fund"), as established by the Treasury Forfeiture Fund Act of 1992, section 638 of Public Law 102–393 (1992), codified in relevant part at 31 U.S.C. 9703.

2. All functions, powers and duties of the Secretary with respect to the Fund, except as specifically delegated herein to the Assistant Secretary (Management)/Chief Financial Officer (CFO), are hereby delegated to the Assistant Secretary (Enforcement).

3. The functions performed by the Assistant Secretary (Enforcement) with respect to the Fund shall include, but not be limited to:

(a) Making all determinations regarding distributions from the Fund, including the amounts to be distributed and the purposes for which distributed amounts may be used by any Treasury law enforcement organization, the Coast Guard, the Departmental Offices, the Department of Justice, State and local organizations, and any other entity; and

(b) Incurring obligations and making expenditures within the budgetary resources available from the Fund.

4. The Assistant Secretary (Management)/CFO shall:

(a) Perform the functions that are assigned to the Assistant Secretary (Management)/CFO by any Treasury Order pertaining to the budget formulation or execution process;

(b) Support the financial management of the Fund; and

(c) Perform any other functions which are delegated by the Secretary to, or vested in, the Assistant Secretary (Management)/CFO pursuant to the Chief Financial Officers Act of 1990, the Federal Managers' Financial Integrity Act, or any other law or regulation pursuant to which authority has been delegated by the Secretary to the Assistant Secretary (Management)/CFO.

5. The specific functions of the Assistant Secretary (Management)/CFO include:

(a) Executing an advice of allotment to the Assistant Secretary (Enforcement) with respect to the budgetary resources available from the Fund;

(b) Accounting for the assets of the Fund;

(c) Recording, reconciling and reporting all transactions of the Fund; and

(d) Maintaining oversight of financial management controls and preparing financial statements.

6. The Assistant Secretary (Enforcement) and Assistant Secretary (Management)/CFO may each establish offices within the Department to

perform their respective functions in connection with the Fund.

7. The delegation, dated October 2, 1992, from the Secretary of the Treasury to the Commissioner of Customs concerning the Fund is hereby revoked.

8. The Assistant Secretary (Enforcement) and Assistant Secretary (Management)/CFO may redelegate or assign any authority delegated to them by this Order.

9. This Order shall become effective on the date of its issuance.

John E. Robson,

Acting Secretary of the Treasury.

[FR Doc. 93–1982 Filed 1–26–93; 8:45 am]

BILLING CODE 4810–25–M

Office of the Secretary

[Department Circular—Public Debt Series—No. 4–93]

Treasury Notes of January 31, 1998, Series J–1998 (CUSIP No. 912827 J4 5)

Washington, January 21, 1993.

1. Invitation of Tenders

1.1. The Secretary of the Treasury, under the authority of Chapter 31 of Title 31, United States Code, invites tenders for United States securities, as described above and in the offering announcement, hereafter referred to as Notes. The Notes will be sold at auction, and bidding will be on a yield basis. Payment will be required at the price equivalent to the highest yield bid at which bids were accepted. The interest rate on the Notes and the price equivalent to the highest yield at which bids were accepted will be determined in the manner described below. Additional amounts of the Notes may be issued to Federal Reserve Banks for their own account in exchange for maturing Treasury securities. Additional amounts of the Notes may be issued to Federal Reserve Banks for their own account in exchange for maturing Treasury securities. Additional amounts of the Notes may also be issued to Federal Reserve Banks as agents for foreign and international monetary authorities.

2. Description of Securities

2.1. The issue date and maturity date of the Notes are stated in the offering announcement. The Notes will accrue interest from the issue date. Interest will be payable on a semiannual basis as described in the offering announcement through the date that the principal becomes payable. The Notes will not be subject to call for redemption prior to maturity. In the event any payment date is a Saturday, Sunday, or other nonbusiness day, the amount due will be payable (without additional interest) on the next business day.

2.2. The Notes will be issued only in book-entry form in the minimum and multiple amounts stated in the offering announcement.

2.3. The Department of the Treasury's general regulations governing United States securities, i.e., Department of the Treasury Circular No. 300, current revision (31 CFR part 306), as to the extent applicable to marketable securities issued in book-entry form, and the regulations governing book-entry Treasury Bonds, Notes, and Bills, as adopted and published as a final rule to govern securities held in the Treasury Direct Book-Entry Securities System in Department of the Treasury Circular, Public Debt Series, No. 2–86 (31 CFR part 357), apply to the Notes offered in this circular.

3. Sale Procedures

3.1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, DC 20239–1500. The closing times for the receipt of noncompetitive and competitive tenders are specified in the offering announcement. Noncompetitive tenders will be considered timely if postmarked (U.S. Postal Service cancellation date) no later than the day prior to the auction and received no later than close of business on the issue day.

3.2. The par amount of Notes bid for must be stated on each tender. The minimum bid is stated in the offering announcement, and larger bids must be in multiples of that amount.

3.3. Competitive bids must also show the yield desired, expressed in terms of an annual yield with two decimals, e.g., 7.10%. Fractions may not be used. A single bidder, as defined in Treasury's single bidder guidelines contained in Attachment A to this circular, may submit bids at more than one yield. However, at any one yield, the Treasury will not recognize any amount tendered by a single bidder in excess of 35 percent of the public offering amount. A competitive bid by a single bidder at any one yield in excess of 35 percent of the public offering will be reduced to that amount.

3.4. Noncompetitive tenders do not specify a yield. A single bidder should not submit a noncompetitive tender for more than $5,000,000. A noncompetitive bid by a single bidder in excess of $5,000,000 will be reduced to that amount. A bidder, whether bidding directly or through a depository institution or a government securities broker/dealer, may not submit a noncompetitive bid for its own account in the same auction in which it is submitting a competitive bid for its own account. A bidder may not submit a noncompetitive bid if the bidder holds a position, in the Notes being auctioned, in "when-issued" trading, or in futures or forward contracts. A noncompetitive bidder may not enter into any agreement to purchase or sell or otherwise dispose of the security being auctioned, nor may it commit to sell the security prior to the designated closing time for receipt of competitive bids.

3.5. The following institutions may submit tenders for accounts of customers: Depository institutions, as described in Section 19(b)(1)(A), excluding those institutions described in subparagraph (vii), of the Federal Reserve Act (12 U.S.C. 461(b)(1)(A)); and government securities broker/dealers that are registered with the Securities and Exchange Commission or noticed as government securities broker/dealers pursuant to section 15C(a)(1) of the Securities Exchange Act of 1934. Others are permitted to submit tenders only for their own account. A submitter, if bidding competitively for customers, must include a customer list with the tender giving, for each customer, the name of the customer and the amount bid. A separate tender and customer list should be submitted for each competitive yield. For noncompetitive bids, the customer list must provide, for each customer, the name of the customer and the amount bid. For mailed tenders, the customer list must be submitted with the tender. For other than mailed tenders, the customer list should accompany the tender. If the customer list is not submitted with the tender, information for the list must be complete and available for review by the deadline for submission of noncompetitive tenders. The customer list should be received by the Federal Reserve Bank on auction day. All competitive and noncompetitive bids submitted on behalf of trust estates must provide, for each trust estate, the name or title of the trustee(s), a reference to the document creating the trust with the date of execution, and the employer identification number of the trust. Customer bids may not be aggregated on the customer list. The customer list must include customers and customers of those customers, where applicable.

3.6. A competitive single bidder must report its net long position if the total of all its bids for the security being offered and its net position in the security equals or exceeds $2 billion, with the position to be determined as of one half-hour prior to the closing time for the receipt of competitive tenders. A

net long position includes positions, in the security being auctioned, in "when-issued" trading, and in futures and forward contracts. Bidders who meet this reporting requirement and are customers of a depository institution or a government securities broker/dealer must report their positions through the institution submitting the bid on their behalf.

3.7. Tenders from bidders who are making payment by charge to a funds account at a Federal Reserve Bank and tenders from bidders who have an approved autocharge agreement on file at a Federal Reserve Bank will be received without deposit. In addition, tenders from States, and their political subdivisions or instrumentalities; public pension and retirement and other public funds; international organizations in which the United States holds membership; foreign central banks and foreign states; and Federal Reserve Banks will be received without deposit. Tenders from all others, including tenders submitted for Notes to be maintained on the book-entry records of the Department of the Treasury, must be accompanied by full payment for the amount of Notes applied for, or by a guarantee from a commercial bank or a primary dealer of 5 percent of the par amount applied for.

3.8. After the deadline for receipt of competitive tenders, there will be a public announcement of the amounts of bids received and accepted, the highest yield accepted, and the interest rate on the notes. Subject to the reservations expressed in Section 4, noncompetitive bids will be accepted in full, and then competitive bids will be accepted, starting with those at the lowest yields, through successively higher yields to the extent required to attain the amount offered. Bids at the highest yield at which bids were accepted will be prorated if necessary. All successful competitive bidders, regardless of the yields they each bid, will be awarded securities at the highest yield at which bids were accepted. After the determination is made as to which bids are accepted, an interest rate will generally be established, at a 1/8 of one percent increment, which produces a price equivalent to the highest yield at which bids were accepted and is closest to, but not above, par. That stated rate of interest will be paid on all of the Notes. Based on such interest rate, the price equivalent to the highest yield at which bids were accepted will be determined, and each noncompetitive bidder and each successful competitive bidder will be required to pay such price for their securities. Price calculations will be carried to three decimal places on the basis of price per hundred, e.g., 99.923, and the determinations of the Secretary of the Treasury shall be final. If the amount of noncompetitive bids received would absorb most or all of the public offering, competitive bids would be accepted in an amount determined by the Department to be sufficient to provide a fair determination of the highest yield for the securities being auctioned. Bids received from Federal Reserve Banks for their own account or for foreign and international monetary authorities will be accepted at the price equivalent to the highest yield at which bids were accepted.

3.9. No single bidder will be awarded securities in an amount exceeding 35 percent of the public offering. The determination of the maximum award to a single bidder will take into account the bidder's net long position, if the bidder has been obliged to report its position per the requirements outlined in Section 3.6.

3.10. Notice of awards will be provided by a Federal Reserve Bank or Branch or the Bureau of the Public Debt to bidders who have submitted accepted competitive bids, whether for their own account or for the account of customers. Those submitting non-competitive bids will be notified only if the bid is not accepted in full, or when the price at the highest yield at which bids were accepted is over par. No later than 12 noon local time on the day following the auction, the appropriate Federal Reserve Bank will notify each depository institution that has entered into an autocharge agreement with a bidder as to the amount to be charged to the institution's funds account at the Federal Reserve Bank on the issue date. Any customer that is awarded $500 million or more of securities must furnish, no later than 10 a.m. local time on the day following the auction, written confirmation of its bid to the Federal Reserve Bank or Branch where the bid was submitted. A depository institution or government securities broker/dealer submitting a bid for a customer is responsible for notifying its customer of this requirement if the customer is awarded $500 million or more of securities as a result of bids submitted by the depository institution or government securities broker/dealer.

4. Reservations

4.1. The Secretary of the Treasury expressly reserves the right to accept or reject any or all bids in whole or in part, to allot more or less than the amount of Notes specified in the offering announcement, and to make different percentage allotments to various classes of applicants when the Secretary considers it in the public interest. The Secretary's action under this Section is final.

5. Payment and Delivery

5.1. Settlement for the Notes allotted must be made timely at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, wherever the tender was submitted. Settlement on Notes allotted will be made by a charge to a funds account or pursuant to an approved autocharge agreement, as provided in Section 3.7. Settlement on Notes allotted to institutional investors and to others whose tenders are accompanied by a guarantee as provided in Section 3.7. must be made or completed on or before the issue date. Payment in full must accompany tenders submitted by all other investors. Payment must be in cash; in order funds immediately available to the Treasury; in Treasury notes or bonds maturing on or before the settlement date but which are not overdue as defined in the general regulations governing United States securities; or by check drawn to the order of the institution to which the tender was submitted, which must be received from institutional investors by the time stated in the offering announcement. When payment has been submitted with the tender and the purchase price of the Notes allotted is over par, settlement for the premium must be completed timely, as specified above. When payment has been submitted with the tender and the purchase price is under par, the discount will be remitted to the bidder.

5.2. In every case where full payment has not been completed on time, an amount of up to 5 percent of the par amount of Notes allotted may, at the discretion of the Secretary of the Treasury, be forfeited to the United States.

5.3. Registered definitive securities tendered in payment for the Notes allotted and to be held in Treasury Direct are not required to be assigned if the inscription on the registered definitive security is identical to the registration of the Note being purchased. In any such case, the tender form used to place the Notes allotted in Treasury Direct must be completed to show all the information required thereon, or the Treasury Direct account number previously obtained.

6. General Provisions

6.1. As fiscal agents of the United States, Federal Reserve Banks are authorized, as directed by the Secretary of the Treasury, to receive tenders, to make allotments, to issue such notices

as may be necessary, to receive payment for, and to issue, maintain, service, and make payment on the Notes.

6.2 The Secretary of the Treasury may at any time supplement or amend provisions of this circular if such supplements or amendments do not adversely affect existing rights of holders of the Notes. Public announcement of such changes will be promptly provided.

6.3. The Notes issued under this circular shall be obligations of the United States, and, therefore, the faith of the United States Government is pledged to pay, in legal tender, principal and interest on the Notes.

6.4. Attachment A and the offering announcement are incorporated as part of this circular.

Marcus W. Page,

Acting Fiscal Assistant Secretary.

Treasury's Single Bidder Guidelines for Noncompetitive Bidding in All Treasury Security Auctions

The investor categories listed below define what constitutes a single noncompetitive bidder.

(1) *Bank Holding Companies and Subsidiaries*—

A bank holding company (includes the company and/or one or more of its subsidiaries, whether or not organized as separate entities under applicable law).

(2) *Banks and Branches*—

A parent bank (includes the percent and/or one or more of its branches, whether or not organized as separate entities under applicable law).

(3) *Thrift Institutions and Branches*—

A thrift institution, such as a savings and loan association, credit union, savings banks, or other similar entity (includes the principal or parent office and/or one or more of its branches, whether or not organized as separate entities under applicable law).

(4) *Corporations and Subsidiaries*—

A corporation (includes the corporation and/or one or more of its majority-owned subsidiaries, i.e., any subsidiary more than 50 percent of whose stock is owned by the parent corporation or by any other of its majority-owned subsidiaries).

(5) *Families*—

A married person (includes his or her spouse, and any unmarried adult children, having a common address and/or household).

Note: A minor child, as defined by the law of domicile, is not permitted to submit tenders individually, or jointly with an adult bidder. (A minor's parent acting as natural guardian is not recognized as a separate bidder.)

(6) *Partnerships*—

Each partnership (includes a partnership or individual partner(s) acting together or separately, who own the majority or controlling interest in other partnerships, corporations, or associations).

(7) *Guardians, Custodians, or other Fiduciaries*—

A guardian, custodian, or similar fiduciary, identified by (a) the name or title of the fiduciary, (b) reference to the document, court order, or other authority under which the fiduciary is acting, and (c) the taxpayer identifying number assigned to the estate.

(8) *Trusts*—

A trust estate, which is identified by (a) the name or title of the trustee, (b) a reference to the document creating the trust, e.g., a trust indenture, with date of execution, or a will, (c) the IRS employer identification number (not social security account number).

(9) *Political Subdivisions*—

(a) A state government (any of the 50 states and the District of Columbia).

(b) A unit of local government (any county, city, municipality, or township, or other unit of general government, as defined by the Bureau of the Census for statistical purposes, and includes any trust, investment, or other funds thereof).

(c) A commonwealth, territory, or possession.

(10) *Mutual Funds*—

A mutual fund (includes all funds that comprise it, whether or not separately administered).

(11) *Money Market Funds*—

A money market fund (includes all funds that have a common management).

(12) *Investment Agents/Money Managers*—

An individual, firm, or association that undertakes to service, invest, and/or manage funds for others.

(13) *Pension Funds*—

A pension fund (includes all funds that comprise it, whether or not separately administered).

Notes: The definitions do not reflect all bidder situations. "Single bidder" is not necessarily synonymous with "single entity".

Questions concerning the guidelines should be directed to the Office of Financing, Bureau of the Public Debt, Washington, DC 20239 (telephone 202/219–3350).

Auction of 2-Year and 5-Year Notes Totaling $26,750 Million

The Treasury will auction $15,250 million of 2-year notes and $11,500 million of 5-year notes to refund $13,238 million of securities maturing January 31, 1993, and to raise about $13,500 million new cash. The $13,238 million of maturing securities are those held by the public, including $1,212 million currently held by Federal Reserve Banks as agents for foreign and international monetary authorities.

The 5-year notes announced today include an amount sufficient to hedge the call, announced on January 13, 1993, of $462 million held by private investors of 7% bonds of 1993–98.

The $26,750 million is being offered to the public, and any amounts tendered by Federal Reserve Banks as agents for foreign and international monetary authorities will be added to that amount.

In addition to the public holdings, Federal Reserve Banks, for their own accounts, hold $882 million of the maturing securities that may be refunded by issuing additional amounts of the new securities.

Both the 2-year and 5-year note auctions will be conducted in the single-price auction format. All competitive and non-competitive awards will be at the highest yield of accepted competitive tenders.

Details about each of the new securities are given in the attached highlights of the offerings and in the official offering circulars.

Attachment.

HIGHLIGHTS OF TREASURY OFFERINGS TO THE PUBLIC OF 2-YEAR AND 5-YEAR NOTES TO BE ISSUED FEBRUARY 1, 1993

Amount Offered to the Public	$15,250 million	$11,500 million.
Description of Security:		
Term and type of security	2-year notes	5-year notes.
Series and CUSIP designation	Series S–1995 (CUSIP No. 912827 J5 2)	Series J–1988 (CUSIP No. 912827 J4 5).
Maturity date	January 31, 1995	January 31, 1998.
Interest rate	To be determined based on the highest accepted bid	To be determined based on the highest accepted bid.
Investment yield	To be determined at auction	To be determined at auction.
Premium or discount	To be determined after auction	To be determined after auction.
Interest payment dates	July 31 and January 31	July 31 and January 31.
Minimum denomination available	$5,000	$1,000.
Terms of Sale:		
Method of sale	Yield auction	Yield auction.
Competitive tenders	Must be expressed as an annual yield, with two decimals, e.g., 7.10%.	Must be expressed as an annual yield, with two decimals, e.g., 7.10%.
Noncompetitive tenders	Accepted in full up to $5,000,000	Accepted in full up to $5,000,000.
Accrued interest payable by investor	None	None.
Key Dates:		
Receipt of tenders	Tuesday, January 26, 1993	Wednesday, January 27, 1993.
(a) Noncompetitive	Prior to 12:00 noon, EST	Prior to 12:00 noon, EST.
(b) Competitive	Prior to 1:00 p.m., EST	Prior to 1:00 p.m., EST.

HIGHLIGHTS OF TREASURY OFFERINGS TO THE PUBLIC OF 2-YEAR AND 5-YEAR NOTES TO BE ISSUED FEBRUARY 1, 1993—Continued

Settlement (final payment due from institutions):		
(a) Funds immediately available to the Treasury	Monday, February 1, 1993	Monday, February 1, 1993.
(b) Readily-collectible check	Thursday, January 28, 1993	Thursday, January 28, 1993.

[FR Doc. 93–1929 Filed 1–22–93; 8:45 am]
BILLING CODE 4810–40–M

[Department Circular—Public Debt Series—No. 3–93]

Treasury Notes of January 31, 1995, Series S–1995 (CUSIP No. 912827 J5 2)

Washington, January 21, 1993.

1. Invitation for Tenders

1.1. The Secretary of the Treasury, under the authority of Chapter 31 of Title 31, United States Code, invites tenders for United States securities, as described above and in the offering announcement, hereafter referred to as Notes. The Notes will be sold at auction, and bidding will be on a yield basis. Payment will be required at the price equivalent to the highest yield bid at which bids were accepted. The interest rate on the Notes and the price equivalent to the highest yield at which bids were accepted will be determined in the manner described below. Additional amounts of the Notes may be issued to Federal Reserve Banks for their own account in exchange for maturing Treasury securities. Additional amounts of the Notes may also be issued to Federal Reserve Banks as agents for foreign and international monetary authorities.

2. Description of Securities

2.1. The issue date and maturity date of the Notes are stated in the offering announcement. The Notes will accrue interest from the issue date. Interest will be payable on a semiannual basis as described in the offering announcement through the date that the principal becomes payable. The Notes will not be subject to call for redemption prior to maturity. In the event any payment date is a Saturday, Sunday, or other nonbusiness day, the amount due will be payable (without additional interest) on the next business day.

2.2. The Notes will be issued only in book-entry form in the minimum and multiple amounts stated in the offering announcement. They will not be issued in registered definitive or in bearer form.

2.3. The Department of the Treasury's general regulations governing United States securities, i.e., Department of the Treasury Circular No. 300, current revision (31 CFR part 306), as to the extent applicable to marketable securities issued in book-entry form, and the regulations governing book-entry Treasury Bonds, Notes, and Bills, as adopted and published as a final rule to govern securities held in the Treasury Direct Book-Entry Securities System in Department of the Treasury Circular, Public Debt Series, No. 2–86 (31 CFR part 357), apply to the Notes offered in this circular.

3. Sale Procedures

3.1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, DC 20239–1500. The closing times for the receipt of noncompetitive and competitive tenders are specified in the offering announcement. Noncompetitive tenders will be considered timely if postmarked (U.S. Postal Service cancellation date) no later than the day prior to the auction and received no later than close of business on the issue day.

3.2. The par amount of Notes bid for must be stated on each tender. The minimum bid is stated in the offering announcement, and larger bids must be in multiples of that amount.

3.3. Competitive bids must also show the yield desired, expressed in terms of an annual yield with two decimals, e.g., 7.10%. Fractions may not be used. A single bidder, as defined in Treasury's single bidder guidelines contained in Attachment A to this circular, may submit bids at more than one yield. However, at any one yield, the Treasury will not recognize any amount tendered by a single bidder in excess of 35 percent of the public offering amount. A competitive bid by a single bidder at any one yield in excess of 35 percent of the public offering will be reduced to that amount.

3.4. Noncompetitive tenders do not specify a yield. A single bidder should not submit a noncompetitive tender for more than $5,000,000. A noncompetitive bid by a single bidder in excess of $5,000,000 will be reduced to that amount. A bidder, whether bidding directly or through a depository institution or a government securities broker/dealer, may not submit a noncompetitive bid for its own account in the same auction in which it is submitting a competitive bid for its own account. A bidder may not submit a noncompetitive bid if the bidder holds a position, in the Notes being auctioned, in "when-issued" trading, or in futures or forward contracts. A noncompetitive bidder may not enter into any agreement to purchase or sell or otherwise dispose of the security being auctioned, nor may it commit to sell the security prior to the designated closing time for receipt of competitive bids.

3.5. The following institutions may submit tenders for accounts of customers: depository institutions, as described in section 19(b)(1)(A), excluding those institutions described in subparagraph (vii), of the Federal Reserve Act (12 U.S.C. 461(b)(1)(A)); and government securities broker/dealers that are registered with the Securities and Exchange Commission or noticed as government securities broker/dealers pursuant to section 15C(a)(1) of the Securities Exchange Act of 1934. Others are permitted to submit tenders only for their own account. A submitter, if bidding competitively for customers, must include a customer list with the tender giving, for each customer, the name of the customer and the amount bid. A separate tender and customer list should be submitted for each competitive yield. For noncompetitive bids, the customer list must provide, for each customer, the name of the customer and the amount bid. For mailed tenders, the customer list must be submitted with the tender. For other than mailed tenders, the customer list should accompany the tender. If the customer list is not submitted with the tender, information for the list must be complete and available for review by the deadline for submission of noncompetitive tenders. The customer list should be received by the Federal Reserve Bank on auction day. All competitive and noncompetitive bids submitted on behalf of trust estates must provide, for each trust estate, the name or title of the trustee(s), a reference to the document creating the trust with the date of execution, and the employer identification number of the trust. Customer bids may not be aggregated on the customer list. The customer list must include customers and customers of those customers, where applicable.

3.6. A competitive single bidder must report its net long position if the total of all its bids for the security being offered and its net position in the security equals or exceeds $2 billion, with the position to be determined as of one half-hour prior to the closing time for the receipt of competitive tenders. A net long position includes positions, in the security being auctioned, in "when-issued" trading, and in futures and forward contracts. Bidders who meet this reporting requirement and are customers of a depository institution or a government securities broker/dealer must report their positions through the institution submitting the bid on their behalf.

3.7. Tenders from bidders who are making payment by charge to a funds account at a Federal Reserve Bank and tenders from bidders who have an approved autocharge agreement on file at a Federal Reserve Bank will be received without deposit. In addition, tenders from States, and their political subdivisions or instrumentalities; public pension and retirement and other public funds; international organizations in which the United States holds membership; foreign central banks and foreign states; and Federal Reserve Banks will be received without deposit. Tenders from all others, including tenders submitted for Notes to be maintained on the book-entry records of the Department of the Treasury, must be accompanied by full payment for the amount of Notes applied for, or by a guarantee from a commercial bank or a primary dealer of 5 percent of the par amount applied for.

3.8. After the deadline for receipt of competitive tenders, there will be a public announcement of the amounts of bids received and accepted, the highest yield accepted, and the interest rate on the notes. Subject to the reservations expressed in section 4, noncompetitive bids will be accepted in full, and then competitive bids will be accepted, starting with those at the lowest yields, through successively higher yields to the extent required to attain the amount offered. Bids at the highest yield at which bids were accepted will be prorated if necessary. All successful competitive bidders, regardless of the yields they each bid, will be awarded securities at the highest yield at which bids were accepted. After the determination is made as to which bids are accepted, an interest rate will generally be established, at a ⅛ of one percent increment, which produces a price equivalent to the highest yield at which bids were accepted and is closest to, but not above, par. That stated rate of interest will be paid on all of the Notes. Based on such interest rate, the price equivalent to the highest yield at which bids were accepted will be determined, and each noncompetitive bidder and each successful competitive bidder will be required to pay such price for their securities. Price calculations will be carried to three decimal places on the basis of price per hundred, e.g., 99.923, and the determinations of the Secretary of the Treasury shall be final. If the amount of noncompetitive bids received would absorb most or all of the public offering, competitive bids would be accepted in an amount determined by the Department to be sufficient to provide a fair determination of the highest yield for the securities being auctioned. Bids received from Federal Reserve Banks for their own account or for foreign and international monetary authorities will be accepted at the price equivalent to the highest yield at which bids were accepted.

3.9. No single bidder will be awarded securities in an amount exceeding 35 percent of the public offering. The determination of the maximum award to a single bidder will take into account the bidder's net long position, if the bidder has been obliged to report its position per the requirements outlined in Section 3.6.

3.10. Notice of awards will be provided by a Federal Reserve Bank or Branch or the Bureau of the Public Debt to bidders who have submitted accepted competitive bids, whether for their own account or for the account of customers. Those submitting noncompetitive bids will be notified only if the bid is not accepted in full, or when the price at the highest yield at which bids were accepted is over par. No later than 12 noon local time on the day following the auction, the appropriate Federal Reserve Bank will notify each depository institution that has entered into an autocharge agreement with a bidder as to the amount to be charged to the institution's funds account at the Federal Reserve Bank on the issue date. Any customer that is awarded $500 million or more of securities must furnish, no later than 10 a.m. local time on the day following the auction, written confirmation of its bid to the Federal Reserve Bank or Branch where the bid was submitted. A depository institution or government securities broker/dealer submitting a bid for a customer is responsible for notifying its customer of this requirement if the customer is awarded $500 million or more of securities as a result of bids submitted by the depository institution or government securities broker/dealer.

4. Reservations

4.1. The Secretary of the Treasury expressly reserves the right to accept or reject any or all bids in whole or in part, to allot more or less than the amount of Notes specified in the offering announcement, and to make different percentage allotments to various classes of applicants when the Secretary considers it in the public interest. The Secretary's action under this Section is final.

5. Payment and Delivery

5.1. Settlement for the Notes allotted must be made timely at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, wherever the tender was submitted. Settlement on Notes allotted will be made by a charge to a funds account or pursuant to an approved autocharge agreement, as provided in section 3.7. Settlement on Notes allotted to institutional investors and to others whose tenders are accompanied by a guarantee as provided in Section 3.7. must be made or completed on or before the issue date. Payment in full must accompany tenders submitted by all other investors. Payment must be in cash; in other funds immediately available to the Treasury; in Treasury notes or bonds maturing on or before the settlement date but which are not overdue as defined in the general regulations governing United States securities; or by check drawn to the order of the institution to which the tender was submitted, which must be received from institutional investors by the time stated in the offering announcement. When payment has been submitted with the tender and the purchase price of the Notes allotted is over par, settlement for the premium must be completed timely, as specified above. When payment has been submitted with the tender and the purchase price is under par, the discount will be remitted to the bidder.

5.2. In every case where full payment has not been completed on time, an amount of up to 5 percent of the par amount of Notes allotted may, at the discretion of the Secretary of the Treasury, be forfeited to the United States.

5.3. Registered definitive securities tendered in payment for the Notes allotted and to be held in Treasury Direct are not required to be assigned if the inscription on the registered definitive security is identical to the registration of the Note being purchased. In any such case, the tender form used to place the Notes allotted in Treasury Direct must be completed to show all the information required thereon, or the

Treasury Direct account number previously obtained.

6. General Provisions

6.1. As fiscal agents of the United States, Federal Reserve Banks are authorized, as directed by the Secretary of the Treasury, to receive tenders, to make allotments, to issue such notices as may be necessary, to receive payment for, and to issue, maintain, service, and make payment on the Notes.

6.2. The Secretary of the Treasury may at any time supplement or amend provisions of this circular if such supplements or amendments do not adversely affect existing rights of holders of the Notes. Public announcement of such changes will be promptly provided.

6.3. The Notes issued under this circular shall be obligations of the United States, and, therefore, the faith of the United States Government is pledged to pay, in legal tender, principal and interest on the Notes.

6.4. Attachment A and the offering announcement are incorporated as part of this circular.

Marcus W. Page,

Acting Fiscal Assistant Secretary.

Treasury's Single Bidder Guidelines for Noncompetitive Bidding in All Treasury Security Auctions

The investor categories listed below define what constitutes a single noncompetitive bidder.

(1) Bank Holding Companies and Subsidiaries—

A bank holding company (includes the company and/or one or more of its subsidiaries, whether or not organized as separate entities under applicable law).

(2) Banks and Branches—

A parent bank (includes the parent and/or one or more of its branches, whether or not organized as separate entities under applicable law).

(3) Thrift Institutions and Branches—

A thrift institution, such as a savings and loan association, credit union, savings banks, or other similar entity (includes the principal or parent office and/or one or more of its branches, whether or not organized as separate entities under applicable law).

(4) Corporations and Subsidiaries—

A corporation (includes the corporation and/or one or more of its majority-owned subsidiaries, i.e., any subsidiary more than 50 percent of whose stock is owned by the parent corporation or by any other of its majority-owned subsidiaries).

(5) Families—

A married person (includes his or her spouse, and any unmarried adult children, having a common address and/or household).

Note: A minor child, as defined by the law of domicile, is not permitted to submit tenders individually, or jointly with an adult bidder. (A minor's parent acting as natural guardian is not recognized as a separate bidder.)

(6) Partnerships—

Each partnership (includes a partnership or individual partner(s), acting together or separately, who own the majority or controlling interest in other partnerships, corporations, or associations).

(7) Guardians, Custodians, or Other Fiduciaries—

A guardian, custodian, or similar fiduciary, identified by (a) the name or title of the fiduciary, (b) reference to the document, court order, or other authority under which the fiduciary is acting, and (c) the taxpayer identifying number assigned to the estate.

(8) Trusts—

A trust estate, which is identified by (a) the name or title of the trustee, (b) a reference to the document creating the trust, e.g., a trust indenture, with date of execution, or a will, (c) the IRS employer identification number (not social security account number).

(9) Political Subdivisions—

(a) A state government (any of the 50 states and the District of Columbia).

(b) A unit of local government (any county, city, municipality, or township, or other unit of general government, as defined by the Bureau of the Census for statistical purposes, and includes any trust, investment, or other funds thereof).

(c) A commonwealth, territory, or possession.

(10) Mutual Funds—

A mutual fund (includes all funds that comprise it, whether or not separately administered).

(11) Money Market Funds—

A money market fund (includes all funds that have a common management).

(12) Investment Agents/Money Managers—

An individual, firm, or association that undertakes to service, invest, and/or manage funds for others.

(13) Pension Funds—

A pension fund (includes all funds that comprise it, whether or not separately administered).

Notes: The definitions do not reflect all bidder situations. "Single bidder" is not necessarily synonymous with "single entity".

Questions concerning the guidelines should be directed to the Office of Financing, Bureau of the Public Debt, Washington, DC 20239 (telephone 202/219–3350).

Auction of 2-Year and 5-Year Notes Totaling $26,750 Million

The Treasury will auction $15,250 million of 2-year notes and $11,500 million of 5-year notes to refund $13,238 million of securities maturing January 31, 1993, and to raise about $13,500 million new cash. The $13,238 million of maturing securities are those held by the public, including $1,212 million currently held by Federal Reserve Banks as agents for foreign and international monetary authorities.

The 5-year notes announced today include an amount sufficient to hedge the call, announced on January 13, 1993, of $462 million held by private investors of 7% bonds of 1993–98.

The $26,750 million is being offered to the public, and any amounts tendered by Federal Reserve Banks as agents for foreign and international monetary authorities will be added to that amount.

In addition to the public holdings, Federal Reserve Banks, for their own accounts, hold $882 million of the maturing securities that may be refunded by issuing additional amounts of the new securities.

Both the 2-year and 5-year note auctions will be conducted in the single-price auction format. All competitive and non-competitive awards will be at the highest yield of accepted competitive tenders.

Details about each of the new securities are given in the attached highlights of the offerings and in the official offering circulars.

Attachment.

HIGHLIGHTS OF TREASURY OFFERINGS TO THE PUBLIC OF 2-YEAR AND 5-YEAR NOTES TO BE ISSUED FEBRUARY 1, 1993

[January 21, 1993]

Amount Offered to the Public	$15,250 million	$11,500 million.
Description of Security:		
Term and type of security	2-year notes	5-year notes.
Series and CUSIP designation	Series S–1995 (CUSIP No. 912827 J5 2)	Series J–1998 (CUSIP No. 912827 J4 5).
Maturity date	January 31, 1995	January 31, 1998.
Interest rate	To be determined based on the highest accepted bid	To be determined based on the highest accepted bid.
Investment yield	To be determined at auction	To be determined at auction.
Premium or discount	To be determined after auction	To be determined after auction.
Interest payment dates	July 31 and January 31	July 31 and January 31.
Minimum denomination available	$5,000	$1,000.
Terms of Sale:		
Method of sale	Yield auction	Yield auction.
Competitive tenders	Must be expressed as an annual yield, with two decimals, e.g., 7.10%.	Must be expressed as an annual yield, with two decimals, e.g., 7.10%.
Noncompetitive tenders	Accepted in full up to $5,000,000	Accepted in full up to $5,000,000.
Accrued interest payable by investor	None	None.
Key Dates:		
Receipt of tenders	Tuesday, January 26, 1993	Wednesday, January 27, 1993.
(a) noncompetitive	Prior to 12:00 noon, EST	Prior to 12:00 noon, EST.
(b) competitive	Prior to 1:00 p.m., EST	Prior to 1:00 p.m., EST.
Settlement (final payment due from institutions):		
(a) funds immediately available to the Treasury	Monday, February 1, 1993	Monday, February 1, 1993.
(b) readily-collectible check	Thursday, January 28, 1993	Thursday, January 28, 1993.

[FR Doc. 93–1928 Filed 1–22–93; 8:45 am]

BILLING CODE 4810–40–M

Sunshine Act Meetings

Federal Register
Vol. 58, No. 16
Wednesday, January 27, 1993

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).

DEFENSE NUCLEAR FACILITIES SAFETY BOARD

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. § 552b), notice is hereby given of the following meeting of the Board:

TIME AND DATE: 10 a.m. February 8, 1993.

PLACE: Public Hearing Room, Suite 700, 625 Indiana Avenue NW., Washington, DC 20004.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Public health and safety issues pertaining to Building 707 at the Rocky Flats Plant near Boulder, Colorado.
2. DOE's responses to Board recommendations and whether or not those responses adequately protect public health and safety relative to Building 707.

CONTACT PERSONS FOR MORE INFORMATION: Kenneth M. Pusateri, General Manager, Defense Nuclear Facilities Safety Board, or Carole J. Council, 625 Indiana Avenue NW., Suite 700, Washington, DC 20004, (202) 208–6400. This is not a toll free number.

SUPPLEMENTARY INFORMATION: The Board will discuss and deliberate upon public health and safety issues related to Building 707 at the Rocky Flats Plant, near Boulder, Colorado. The meeting will include consideration of testimony and documents received at or after the public meeting and hearing conducted in Boulder, Colorado, on February 2, 1993, regarding DOE's operational readiness review for Building 707.

The Board will also discuss, pursuant to the requirements of section 3133 of the National Defense Authorization Act for Fiscal Years 1992 and 1993, whether or not DOE's responses to Board recommendations adequately protect public health and safety relative to Building 707.

The Board reserves its right to further schedule and otherwise regulate the course of the meeting, to recess, reconvene, postpone, or adjourn the meeting, and otherwise exercise its powers as provided by law.

Dated: January 25, 1993.

Robert M. Andersen,

General Counsel.

[FR Doc. 93–2103 Filed 1–25–93; 2:30 pm]

BILLING CODE 6820–KD–M

FARM CREDIT ADMINISTRATION

Farm Credit Administration Board; Special Meeting

AGENCY: Farm Credit Administration.

SUMMARY: Notice is hereby given, pursuant to the Government in the Sunshine Act (5 U.S.C. 552b(e)(3)), of the forthcoming special meeting of the Farm Credit Administration Board (Board).

DATE AND TIME: The special meeting of the Board will be held at the offices of the Farm Credit Administration in McLean, Virginia, on January 29, 1993, from 1:30 p.m. until such time as the Board concludes its business.

FOR FURTHER INFORMATION CONTACT: Curtis M. Anderson, Secretary to the Farm Credit Administration Board, (703) 883–4003, TDD (703) 883–4444.

ADDRESS: Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102–5090.

SUPPLEMENTARY INFORMATION: This meeting of the Board will be open to the public (limited space available). The matter to be considered at the meeting is:

OPEN SESSION

A. New Business

1. Policy Statement Concerning Operational Responsibilities.

Date: January 25, 1993.

Curtis M. Anderson,

Secretary, Farm Credit Administration Board.

[FR Doc. 93–2101 Filed 1–25–93; 2:29 pm]

BILLING CODE 6705–01–P

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

TIME AND DATE: 12:00 noon, Monday, February 1, 1993.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, NW., Washington, DC 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204. You may call (202) 452–3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and holding company applications scheduled for the meeting.

Date: January 22, 1993.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 93–2034 Filed 1–25–93; 9:19 am]

BILLING CODE 6210–01–M

Corrections

Federal Register
Vol. 58, No. 16
Wednesday, January 27, 1993

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR-943-4212-13; GP2-463; OR-46267]

Conveyance of Public Lands; Order Providing for Opening of Lands; Oregon

Correction

In notice document 92-25691 beginning on page 48393 in the issue of Friday, October 23, 1992, make the following corrections:

1. On page 48393, in the third column, in the land description, under T. 10 S., R. 22 E., under Sec. 9, in the first line, "S½SW¼" should read "S½NW¼".

2. On the same page, in the same column, under T. 11 S., R. 22 E., under Sec. 8, in the 14th line, "61°41'" should read "61°43'".

3. On page 48394, in the second column, under T. 10 S., R. 22 E., under Sec. 32, in the second line, insert "SE¼SW¼" after "W½SW¼".

4. On the same page, in the same column, under T. 11 S., R. 22 E., under Sec. 8, in the second line, "NW¼SW¼" where it first appears should read "NE¼SW¼".

BILLING CODE 1505-01-D

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR-943-4210-04;GP3-046; OR-39641]

Conveyance of Public Lands; Order Providing for Opening of Lands; Oregon

Correction

In notice document 92-28876 beginning on page 56589 in the issue of Monday, November 30, 1992, make the following correction:

On page 56590, in the second column, in the land description, in the tenth line from the top "Sec. 16, lots 2, 3, and 5," should read "Sec. 16, lots 2, 3, 4, and 5,".

BILLING CODE 1505-01-D

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR-943-4212-13; GP2-468; OR-45733 (WASH)]

Conveyance for Public Lands; Order Providing for Opening of Lands; Washington

Correction

In notice document 92-26059 beginning on page 48804 in the issue of Wednesday, October 28, 1992, make the following corrections:

1. On page 48804, in the second column, in land description T. 22 N., R. 33 E., in the ninth line from the bottom, "SE¼SE¼" should read "SW¼SE¼".

2. On the same page, in the third column, in land description T. 22 N., R. 34 E., in the third line, "N½NW½NE¼" should read "N½NW¼NE¼".

3. On the same page, in the same column, land description T. 22 N., R. 35 E. should read T. 22 N., R. 35 E., and in that land description, in Sec. 24, in the second line, the first time "N½SW¼" appears should read "N½NW¼", and in Sec. 29, in the fourth line, "right-of-away" should read "right-of-way".

BILLING CODE 1505-01-D

federal register

Wednesday
January 27, 1993

Part II

The President

Memorandum of January 15—Delegation of Responsibilities Under Public Law 87–297

Presidential Determination No. 93–14—Determination Pursuant to Section 2(c)(1) of the Migration and Refugee Assistance Act of 1962, as Amended

Federal Register
Vol. 58, No. 16
Wednesday, January 27, 1993

Presidential Documents

Title 3—

The President

Memorandum of January 15, 1993

Delegation of Responsibilities Under Public Law 87–297

Memorandum for the Secretary of State, the Secretary of Defense [and] the Director of the Arms Control and Disarmament Agency

By virtue of the authority vested in me by the Constitution and the laws of the United States of America, including section 301 of title 3 of the United States Code, and section 50 of the Arms Control and Disarmament Act, Public Law 87–297 (the Act), I hereby delegate to the Director of the Arms Control and Disarmament Agency the authorities and duties vested in me by section 50 of the Act for the report concerning activities of the agency for 1992, provided that the Director may exercise such authorities and duties only in consultation with the Secretary of State and the Secretary of Defense. This delegation will expire with the issuance of the agency's 1992 Annual Report.

The Director is directed to publish this memorandum in the **Federal Register.**

George Bush

THE WHITE HOUSE,
Washington, January 15, 1993.

[FR Doc. 93–2157
Filed 1–26–93; 10:47 am]
Billing code 3195–01–M

Presidential Documents

Presidential Determination No. 93–14 of January 19, 1993

Determination Pursuant to Section 2(c)(1) of the Migration and Refugee Assistance Act of 1962, as Amended

Memorandum for the Secretary of State

Pursuant to section 2(c)(1) of the Migration and Refugee Assistance Act of 1962, as amended, 22 U.S.C. 2601(c)(1), I hereby determine that it is important to the national interest that up to $5,000,000 be made available from the U.S. Emergency Refugee and Migration Assistance Fund to meet the urgent and unexpected needs of refugees, displaced persons, and victims of conflict from Tajikistan. These funds may be contributed on a multilateral or bilateral basis as appropriate to international organizations, private voluntary organizations, and other governmental and nongovernmental organizations engaged in this relief effort.

You are directed to inform the appropriate committees of the Congress of this determination and the obligation of funds under this authority, and to publish this memorandum in the **Federal Register.**

George Bush

THE WHITE HOUSE,
Washington, January 19, 1993.

[FR Doc. 93–2162
Filed 1–26–93; 10:59 am]
Billing code 3195–01–M

Reader Aids

Federal Register

Vol. 58, No. 16

Wednesday, January 27, 1993

INFORMATION AND ASSISTANCE

Federal Register

Index, finding aids & general information	202–523–5227
Public inspection desk	523–5215
Corrections to published documents	523–5237
Document drafting information	523–3187
Machine readable documents	523–3447

Code of Federal Regulations

Index, finding aids & general information	523–5227
Printing schedules	523–3419

Laws

Public Laws Update Service (numbers, dates, etc.)	523–6641
Additional information	523–5230

Presidential Documents

Executive orders and proclamations	523–5230
Public Papers of the Presidents	523–5230
Weekly Compilation of Presidential Documents	523–5230

The United States Government Manual

General information	523–5230

Other Services

Data base and machine readable specifications	523–3447
Guide to Record Retention Requirements	523–3187
Legal staff	523–4534
Privacy Act Compilation	523–3187
Public Laws Update Service (PLUS)	523–6641
TDD for the hearing impaired	523–5229

FEDERAL REGISTER PAGES AND DATES, JANUARY

1–212.....4
213–466.....5
467–2964.....6
2965–3192.....7
3193–3484.....8
3485–3824.....11
3825–4058.....12
4059–4294.....13
4295–4568.....14
4569–4890.....15
4891–5252.....19
5253–5560.....21
5561–5918.....22
5919–6074.....25
6075–6186.....26
6187–6342.....27

CFR PARTS AFFECTED DURING JANUARY

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

1 CFR

305.....4295

3 CFR

Proclamations:
6519.....207
6520.....467
6521.....469
6522.....3193
6523.....3195
6524.....4293
6525.....5917
6526.....6187

Executive Orders:
10865 (Amended by EO 12829).....3479
10909 (See EO 12829).....3479
11382 (See EO 12829).....3479
12333 (See EO 12829).....3479
12356 (See EO 12829).....3479
12792 (Amended by 12827).....211
12808 (See EO 12831).....5253
12810 (Revoked in part by EO 12831).....5253
2859 (Amended by EO 12832).....5905
12154 (Amended by EO 12833).....5907
12827.....211
12828.....2965
12829.....3479
12830.....4061
12831.....5253
12832.....5905
12833.....5907
12834.....5911
12835.....6189

Administrative Orders:
Memorandums:
December 30, 1992.....3197, 3485
January 15, 1993.....6339
Presidential Determinations:
No. 93–7 of January 5, 1993.....4059
No. 93–8 of January 6, 1993.....5241
No. 93–9 of January 6, 1993.....5243
No. 93–10 of January 6, 1993.....5245
No. 93–11 of January 6, 1993.....5247
No. 93–12 of January 6, 1993.....5249
No. 93–13 of January 6, 1993.....5251
No. 93–14 of January 19, 1993.....6341

5 CFR

351.....5561
430.....6056
531.....3199
532.....3199
550.....3199
575.....3199
838.....3201
890.....4569

Proposed Rules:
410.....3508

7 CFR

2.....4569
52.....4295
271.....213
272.....213
273.....213
274.....213
275.....213
276.....213
277.....213
278.....213
279.....213
280.....213
281.....213
282.....213
284.....213
285.....213
301.....215–217
354.....219
401.....3202
422.....1
800.....3211, 3213
920.....3069
921.....220
928.....4302
966.....4570
979.....4572
984.....4570
989.....4570
800.....5255
1001.....5255
1004.....5255
1124.....5255
1207.....3358
1209.....3446
1210.....3354
1211.....3362
1212.....3366
1410.....4063
1413.....4303
1421.....4303
1822.....222
1823.....222
1900.....222, 4065
1901.....222, 5564

1910.....222
1940.....5564
1941.....222
1942.....222
1943.....222
1944.....222, 5564
1945.....222
1948.....222
1951.....222, 4066, 5564
1956.....5564
1965.....4067
1980.....222
2003.....5564
2676.....4576
4284.....5564

Proposed Rules:

29.....3233
52.....3816
56.....3234
59.....3234
68.....3511
275.....5188
283.....5188
354.....260
723.....3869
781.....3871
958.....3234
1446.....3514
1944.....507
1956.....4095

8 CFR

100.....471, 3487
212.....4891

Proposed Rules:

235.....6056

9 CFR

94.....4306
317.....682
318.....4067
320.....682
381.....682, 4067

Proposed Rules:

78.....4360
91.....262
92.....4361, 4362
94.....264
98.....266
317.....688
318.....269
381.....688

10 CFR

0.....3825

Proposed Rules:

Ch. I.....6196
20.....4363
30.....3515, 4099
40.....3515, 4099, 6098
50.....271, 3515
52.....271
70.....3515, 4099
72.....3515, 4099, 5301, 6098
74.....6098
75.....6098
100.....271, 4946
150.....6098

11 CFR

110.....3474

Proposed Rules:

104.....4110

12 CFR

7.....4070
34.....4460
203.....1
208.....4460
225.....471, 4073
229.....2
327.....3069
365.....4460
506.....4308
509.....4308
516.....4308
528.....4308
541.....4308
543.....4308
545.....4460
552.....4308
556.....4308
558.....4308
559.....4308
561.....4308
563.....4460
563b.....4308
563e.....4308
567.....474, 4308
571.....4308
579.....4308
580.....4308
601.....5919
701.....6075
741.....5570
932.....3487
1616.....476

Proposed Rules:

5.....4600
16.....4600
203.....31
208.....3235
211.....513, 3235
225.....3235
230.....271
353.....3237
620.....3872
703.....5664
748.....5663

13 CFR

101.....2967
121.....4074

14 CFR

21.....5571
25.....5571
35.....3214
39.....4, 6, 480, 483, 3491, 4892, 5256–5261, 5574–5578, 5671, 5920–5924, 6077–6085, 6191
71.....3216, 3217, 4314, 4315
93.....229
97.....3218, 3220, 4893, 4895
413.....3826
415.....3826
1203b.....5263

Proposed Rules:

Ch. I.....5947
21.....3239, 5666, 5669
27.....5666
29.....3239, 4566, 5669
39.....275, 278, 515, 3873, 4366, 4367, 4600, 5671, 5947, 5949, 6056, 6198
71.....34, 3241, 3242, 3875, 4946, 5301, 5303
93.....280
221.....287
234.....4370
241.....35
300.....516
389.....287

15 CFR

50.....4077
770.....3222
771.....485, 487
773.....485
774.....485
776.....485
777.....487
779.....485
785.....485
786.....3222

Proposed Rules:

Ch. IX.....4601
303.....4947
1200.....5672

16 CFR

305.....3224, 5925
307.....4874
1615.....4078
1616.....4078

Proposed Rules:

307.....4874
1615.....4111
1616.....4111

17 CFR

34.....5580
35.....5587
240.....7, 11
241.....7
249.....11
276.....7

Proposed Rules:

33.....4948
270.....2999, 3243

18 CFR

2.....489
284.....5595
346.....2968
381.....2968

Proposed Rules:

35.....519
290.....519

19 CFR

118.....5596
151.....5596
178.....5596

Proposed Rules:

4.....4114
10.....4615
113.....5680
123.....4615
142.....4115
145.....4615

20 CFR

416.....4896

Proposed Rules:

404.....4950, 5687
416.....4950, 5687

21 CFR

Ch. I.....2470
1.....2079
2.....6086
5.....494, 2066, 2070, 2302, 2927
20.....2066, 2478, 2927
73.....3225
100.....2066, 2457, 2462, 2927
101.....2066–2302, 2448, 2478–2850, 2897–2927
102.....2850, 2897
103.....378
104.....2206
105.....2066, 2070, 2422, 2927
130.....2066, 2070, 2431, 2850, 2927
131.....2888
133.....2888
135.....2850, 2888
136.....2850
137.....2850
139.....2850
145.....2850
146.....2850
150.....2850
152.....2850
155.....2850
156.....2850
158.....2850
160.....2850
161.....2850
163.....2850
164.....2850
166.....2850
168.....2850, 2888
169.....2850
172.....6088
177.....2976
291.....495
316.....6186
510.....4316, 5607
520.....5607, 5608, 6092
522.....499
526.....500
558.....4316
601.....4078
888.....3227
1308.....4316

Proposed Rules:

Ch. I.....4953
100.....2957
101.....2944, 2950
102.....2950
103.....382, 389, 393
129.....393
135.....520
161.....2950
165.....393
184.....393
355.....6102
876.....4116
878.....3436
1308.....4370

22 CFR

309.....2977

23 CFR

Proposed Rules:

655.....288
659.....186
1215.....4622
1260.....186

24 CFR

100.....2988
248.....4870
770.....4162
882.....4162
888.....4162
889.....4162
890.....4162
905.....6092

906.....6092
941.....4162
961.....3160
990.....4318
3500.....5250

25 CFR

501.....5802
515.....5814
519.....5802
522.....5802
523.....5802
524.....5802
531.....5818
533.....5818
535.....5818
537.....5818
539.....5818
556.....5802
558.....5802
571.....5833
573.....5833
575.....5833
577.....5833

Proposed Rules:

23.....4046

26 CFR

1.....231–235, 3330, 4000, 5263, 5927
301.....16, 3827
602.....4079, 5263, 5927

Proposed Rules:

1.....43, 44, 47, 290, 300, 305, 322, 3522, 3876, 4125, 5304, 5310, 5687, 5691, 6103
5f.....5316
20.....305, 322, 4125
25.....305, 322, 4125
26.....4372
35a.....5316
52.....4625
301.....3331, 4372
602.....5310

27 CFR

Proposed Rules:

4.....5608
290.....3247

28 CFR

26.....4898
551.....5210

Proposed Rules:

2.....4126

29 CFR

34.....4742
1602.....239
1910.....4462
2602.....4318
2610.....4574
2616.....4203
2617.....4203
2619.....4575
2622.....4574
2644.....4577

Proposed Rules:

18.....3822
42.....5168
2619.....5128
2676.....5128

30 CFR

701.....3466
785.....3466
901.....3830
913.....4320
914.....4322
917.....3833
935.....3838, 4324, 4326
938.....4331

Proposed Rules:

779.....3458
780.....3458
783.....3458
784.....3458
840.....3248
842.....3248
914.....3928, 4372, 4374
915.....4376
916.....4381
917.....4384, 4386
924.....4387
935.....4388
944.....4390

31 CFR

205.....4460
250.....4577
349.....412
356.....412
580.....3228, 4080

32 CFR

40a.....239
397.....5293
706.....4333, 4334
954.....4902

33 CFR

117.....19
165.....2988

Proposed Rules:

117.....47
126.....4127
151.....452
155.....452, 4040
156.....452, 4040
162.....4130

34 CFR

99.....3188
282.....5174
668.....3180
682.....3174

35 CFR

251.....5615

Proposed Rules:

1191.....3069
1230.....376

37 CFR

Ch. 3.....5616
1.....4335
10.....4335

Proposed Rules:

1.....528

38 CFR

1.....3840

Proposed Rules:

4.....4954–4969, 5691

40 CFR

2.....458, 5061
52.....3492, 3841–3847, 4578, 4902, 5294, 6056, 6093
60.....20, 5294
61.....20, 3072, 5294
72.....3590
73.....3590
75.....3590
77.....3590
78.....3590
81.....3334, 3848, 4348
82.....4768
86.....3994
271.....500
272.....3497
307.....5560
310.....4816

Proposed Rules:

Ch. I.....3002, 4391, 4392, 6200
51.....3768
52.....322, 324, 326, 5319, 5695
63.....328
68.....5102
76.....5950
85.....3380
86.....3380
148.....4972
172.....5878
180.....4131
261.....4972
268.....4972
302.....6056
372.....4133
761.....6184

42 CFR

433.....4904, 6095
435.....4904, 4908
436.....4904, 4908
440.....4908
447.....6095
493.....5212, 5215
1001.....2989, 5617
1005.....5617

43 CFR

4.....4939

Public Land Order:

6953.....4081
6955.....3229

Proposed Rules:

2.....4635
3400.....5697

44 CFR

64.....501, 4082, 4084, 6096

45 CFR

708.....4350
1304.....5492
1305.....5492
1308.....5492

46 CFR

15.....21
514.....25, 5618
560.....5627
572.....5627
580.....5618
581.....5618
583.....5618

Proposed Rules:

28.....630
514.....4137, 6186

47 CFR

61.....5936
64.....4354, 5936
65.....5936
69.....5936
73.....4355, 4943, 4944, 5299, 5300, 5937, 6193
90.....376

Proposed Rules:

Ch. I.....3522, 4139, 5319
1.....3929
2.....4974
43.....530
65.....4637
69.....4637
73.....3002, 3004, 3929, 4139, 4392, 4393, 4974, 5320–5323, 6201
76.....48, 328, 3005, 3523, 3929
100.....3929

48 CFR

31.....3850
1832.....4086
1852.....4086

Proposed Rules:

970.....4141
9904.....6103

49 CFR

1.....502, 5631, 6193
172.....3344, 5850
173.....3344
177.....5850
194.....244
541.....3850
564.....3856
571.....3500, 3853, 3856, 4582, 4586, 5632, 5633
572.....3229
630.....4880
665.....2989
1039.....4355

Proposed Rules:

41.....4393
213.....338, 4975
234.....4400
383.....4638, 4640
390.....4640
391.....4640
571.....4644, 4649, 5323, 5699
1007.....531
1023.....5951
1039.....6104
1162.....5951
1312.....3529

50 CFR

17.....4356, 5638, 5643, 5647, 5938
32.....5064
33.....5064
217.....4088
222.....4088
227.....2990, 4088, 5642
228.....4091
611.....2990
625.....5658
633.....3330
642.....3330, 4093, 4599
650.....4944
663.....2990
672.....503, 504, 5660
675.....504, 5660, 5662

Proposed Rules:

17.....339, 4144, 4145, 4400, 4401, 4975, 5341, 5701

227.....3108
663.....126, 4146
672.....532

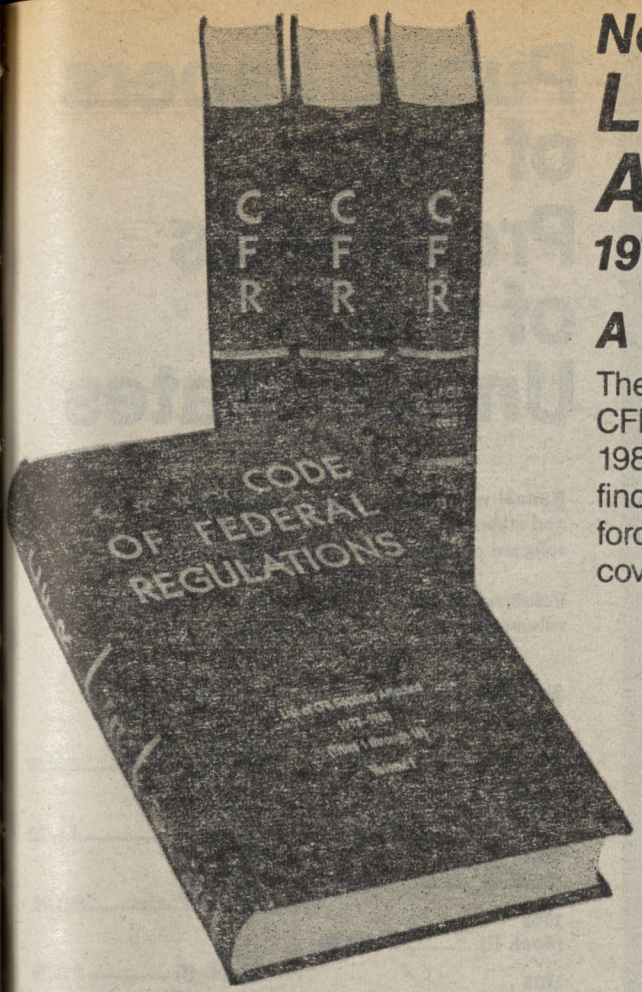
LIST OF PUBLIC LAWS

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's List of Public Laws.

Last List January 21, 1993

ELECTRONIC BULLETIN BOARD

Free Electronic Bulletin Board Service for Public Law Numbers is available on 202–275–1538 or 275–0920.



New Publication
List of CFR Sections Affected
1973-1985
A Research Guide

These four volumes contain a compilation of the "List of CFR Sections Affected (LSA)" for the years 1973 through 1985. Reference to these tables will enable the user to find the precise text of CFR provisions which were in force and effect on any given date during the period covered.

Volume I (Titles 1 thru 16).....$27.00
Stock Number 069-000-00029-1

Volume II (Titles 17 thru 27).....$25.00
Stock Number 069-000-00030-4

Volume III (Titles 28 thru 41).....$28.00
Stock Number 069-000-00031-2

Volume IV (Titles 42 thru 50).....$25.00
Stock Number 069-000-00032-1

Superintendent of Documents **Publications** Order Form

Order Processing Code:
***6962**

Charge your order. It's easy! MasterCard VISA

P4

To fax your orders and inquiries–(202) 512-2250

Please Type or Print (Form is aligned for typewriter use.)

Prices include regular domestic postage and handling and are good through 12/92. After this date, please call Order and Information Desk at 202-783-3238 to verify prices. International customers please add 25%.

Qty.	Stock Number	Title	Price Each	Total Price
1	021-602-00001-9	Catalog–Bestselling Government Books	**FREE**	**FREE**
			Total for Publications	

(Company or personal name) (Please type or print)

(Additional address/attention line)

(Street address)

(City, State, ZIP Code)

( )
(Daytime phone including area code)

Mail order to:
New Orders, Superintendent of Documents
P.O. Box 371954, Pittsburgh, PA 15250-7954

Please Choose Method of Payment:

☐ Check payable to the Superintendent of Documents

☐ GPO Deposit Account ☐☐☐☐☐☐☐–☐

☐ VISA or MasterCard Account

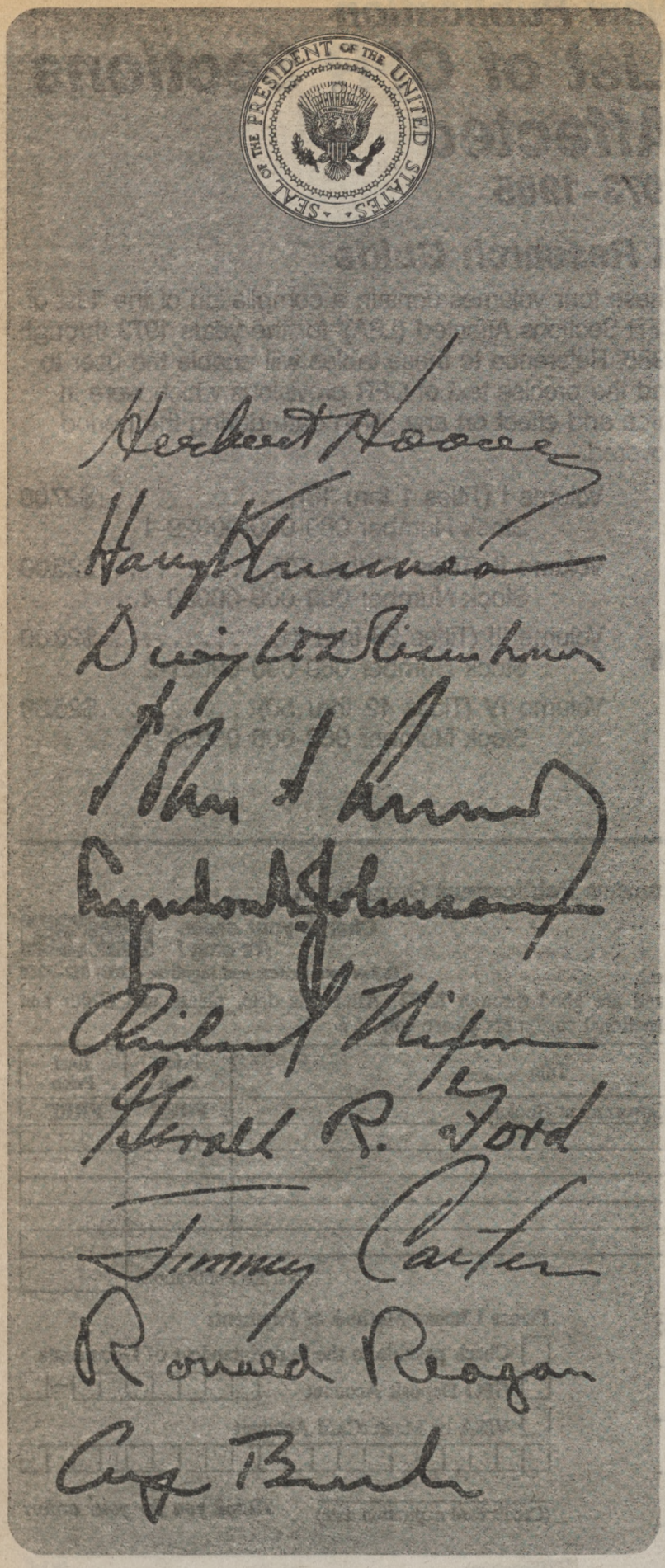
☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐

(Credit card expiration date)

Thank you for your order!

(Signature)

Rev 6-92



Public Papers of the Presidents of the United States

Annual volumes containing the public messages and statements, news conferences, and other selected papers released by the White House.

Volumes for the following years are available; other volumes not listed are out of print.

Ronald Reagan

1983 (Book I) $31.00

1983 (Book II) $32.00

1984 (Book I) $36.00

1984 (Book II) $36.00

1985 (Book I) $34.00

1985 (Book II) $30.00

1986 (Book I) $37.00

1986 (Book II) $35.00

1987 (Book I) $33.00

1987 (Book II) $35.00

1988 (Book I) $39.00

1988–89 (Book II) $38.00

George Bush

1989 (Book I) $38.00

1989 (Book II) $40.00

1990 (Book I) $41.00

1990 (Book II) $41.00

1991 (Book I) $41.00

Published by the Office of the Federal Register, National Archives and Records Administration

Mail order to:
New Orders, Superintendent of Documents
P.O. Box 371954, Pittsburgh, PA 15250–7954

(Rev 5/92)

Printed on recycled paper